

107TH CONGRESS
2D SESSION

S. 2933

To promote elder justice, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2002

Mr. BREAUX (for himself, Mr. HATCH, Mr. BAUCUS, Ms. COLLINS, Mrs. CARNAHAN, Mr. SMITH of Oregon, Mrs. LINCOLN, Mr. BOND, Mr. TORRICELLI, Mr. NELSON of Nebraska, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To promote elder justice, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Elder Justice Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.

TITLE I—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 101. Amendment to the Social Security Act.

- Sec. 102. Patient Abuse Prevention Act.
- Sec. 103. Increasing the number of health care professionals with geriatric training.
- Sec. 104. Supporting the long-term care ombudsman program.
- Sec. 105. Establishment of Office of Adult Protective Services.
- Sec. 106. Assuring safety of residents when nursing facilities close.

TITLE II—DEPARTMENT OF JUSTICE

- Sec. 201. Model State laws and practices.
- Sec. 202. Office of Elder Justice of the Department of Justice.
- Sec. 203. Grants, cooperative agreements, and contracts under the Social Security Act.
- Sec. 204. Victim advocacy grants.
- Sec. 205. Center for the prosecution of elder abuse, neglect, and exploitation.
- Sec. 206. Coordination of elder justice activities by the National Association of Attorneys General.
- Sec. 207. Technical, investigative, and victim assistance for Federal cases involving elder justice.
- Sec. 208. Community policing.
- Sec. 209. Evaluations.
- Sec. 210. Authorization of appropriations.
- Sec. 211. Cause of action for elder abuse and neglect.
- Sec. 212. Regulations.

TITLE III—TAX PROVISIONS

- Sec. 301. Long-term care facility worker employment tax credit.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The proportion of the United States popu-
 4 lation age 65 years or older will drastically increase
 5 in the next 30 years as 77,000,000 baby boomers
 6 approach retirement and old age.

7 (2) Each year, anywhere between 500,000 and
 8 5,000,000 elders in the United States are abused,
 9 neglected, or exploited.

10 (3) Elder abuse, neglect, and exploitation have
 11 no boundaries, and cross all racial, social class, gen-
 12 der, and geographic lines.

1 (4) Victims of elder abuse, neglect, and exploi-
2 tation are not only subject to injury from mistreat-
3 ment and neglect, they are also 3.1 times more likely
4 to die than elders who were not victims of elder
5 abuse, neglect, and exploitation.

6 (5) There is a general dearth of data as to the
7 nature and scope of elder abuse, neglect, and exploi-
8 tation.

9 (6) Despite the dearth of data in the field, ex-
10 perts agree that most cases of elder abuse, neglect,
11 and exploitation are never reported and that abuse
12 and neglect shorten a victim's life, often triggering
13 a downward spiral of an otherwise productive, self-
14 sufficient elder's life. Programs addressing other dif-
15 ficult issues such as domestic violence and child
16 abuse and neglect have demonstrated the need for a
17 multi-faceted law, including public health, social
18 service, and law enforcement approaches.

19 (7) For over 20 years, Congress has been pre-
20 sented with facts and testimony calling for a coordi-
21 nated Federal effort to combat elder abuse, neglect,
22 and exploitation.

23 (8) The Federal Government has been slow to
24 respond to the needs of victims of elder abuse, ne-

1 neglect, and exploitation or to undertake prevention ef-
2 forts.

3 (9) No Federal law has been enacted that ade-
4 quately addresses the issues of elder abuse, neglect,
5 and exploitation and there are very limited resources
6 available to those in the field directly dealing with
7 these issues.

8 (10) The Federal Government should provide
9 leadership and assist States and communities in
10 their efforts to protect elders in the United States
11 by—

12 (A) promoting coordinated planning among
13 all levels of government;

14 (B) generating and sharing knowledge rel-
15 evant to protecting elders; and

16 (C) providing leadership to end the abuse,
17 neglect, and exploitation of the nation's elders.

18 (11) The problem of elder abuse, neglect, and
19 exploitation requires a comprehensive approach
20 that—

21 (A) integrates the work of health, legal,
22 and social service agencies and organizations;

23 (B) emphasizes the need for prevention,
24 assessment, investigation, treatment, and pros-

ecution of elder abuse, neglect, and exploitation
at all levels of government;

(C) ensures that sufficient numbers of
properly trained personnel with specialized
knowledge are in place to carry out elder pro-
tection duties; and

(D) is sensitive to ethnic and cultural di-
versity.

(12) The failure to coordinate activities relating
to, and comprehensively prevent and treat, elder
abuse, neglect, and exploitation threatens the future
and well being of millions of elders in the United
States.

(13) All elements of society in the United
States have a shared responsibility in responding to
a national problem of elder abuse, neglect, and ex-
ploitation.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To bring a comprehensive approach to pre-
venting and combating elder abuse, neglect, and ex-
ploitation, a long invisible problem that afflicts the
most vulnerable among the aging population of the
United States.

1 (2) To raise the issue of elder abuse, neglect,
 2 and exploitation to national attention, and to create
 3 the infrastructure to assure that individuals and or-
 4 ganizations on the front lines, who are fighting elder
 5 abuse, neglect, and exploitation with scarce re-
 6 sources and fragmented systems, have the resources
 7 and information needed to carry out their fight.

8 (3) To bring a comprehensive multi-disciplinary
 9 approach to elder justice.

10 (4) To set in motion research and data collec-
 11 tion to fill gaps in knowledge about elder abuse, ne-
 12 glect, and exploitation.

13 (5) To supplement the activities of service pro-
 14 viders and programs, to enhance training, and to le-
 15 verage scarce resources efficiently to ensure that the
 16 issue receives the attention it deserves in the United
 17 States, with its aging population.

18 **TITLE I—DEPARTMENT OF**
 19 **HEALTH AND HUMAN SERVICES**

20 **SEC. 101. AMENDMENT TO THE SOCIAL SECURITY ACT.**

21 The Social Security Act (42 U.S.C. 301 et seq.) is
 22 amended by adding at the end the following:

23 **“TITLE XXII—ELDER JUSTICE**

24 **“SEC. 2201. DEFINITIONS.**

25 “In this title:

1 “(1) ABUSE.—The term ‘abuse’ means knowing
 2 infliction of physical or psychological harm or know-
 3 ing deprivation of goods or services that are nec-
 4 essary to avoid physical or psychological harm.

5 “(2) CAREGIVER.—The term ‘caregiver’ means
 6 an individual who has the responsibility for the care
 7 of an elder, either voluntarily, by contract, by receipt
 8 of payment for care, or as a result of the operation
 9 of law and means a family member or other indi-
 10 vidual who provides (on behalf of such individual or
 11 of a public or private agency, organization, or insti-
 12 tution) compensated or uncompensated care to an
 13 elder who needs supportive services in any setting.

14 “(3) DIRECT CARE.—The term ‘direct care’
 15 means care by an employee or contractor who pro-
 16 vides assistance or long-term care services to a re-
 17 cipient.

18 “(4) ELDER.—The term ‘elder’ means an indi-
 19 vidual age 65 or older.

20 “(5) ELDER JUSTICE.—The term ‘elder justice’
 21 means—

22 “(A) from a societal perspective, efforts to
 23 prevent, detect, treat, intervene in, and pros-
 24 ecute elder abuse, neglect, and exploitation; and

1 “(B) from an individual perspective, the
2 right to be free of abuse, neglect, and exploi-
3 tation.

4 “(6) ELIGIBLE ENTITY.—The term ‘eligible en-
5 tity’ means a State or local government agency, In-
6 dian tribe, or any other public or private entity that
7 is engaged in and has expertise in issues relating to
8 elder justice or in a field necessary to promote elder
9 justice efforts.

10 “(7) EXPLOITATION.—The term ‘exploitation’
11 means the illegal or improper act or process of an
12 individual, including a caregiver, using the resources
13 of an elder for monetary or personal benefit, profit,
14 or gain.

15 “(8) INDIAN.—The term ‘Indian’ means a per-
16 son who is a member of an Indian tribe.

17 “(9) INDIAN TRIBE.—The term ‘Indian tribe’
18 means any Indian tribe, band, nation, or other orga-
19 nized group or community, including any Alaska Na-
20 tive village or regional corporation as defined in or
21 established pursuant to the Alaska Native Claims
22 Settlement Act (43 U.S.C. 1601 et seq.), that is rec-
23 ognized as eligible for the special programs and serv-
24 ices provided by the United States to Indians be-
25 cause of their status as Indians.

1 “(10) LAW ENFORCEMENT.—The term ‘law en-
 2 forcement’ means the full range of potential re-
 3 sponders to elder abuse, neglect, and exploitation
 4 including—

5 “(A) police;

6 “(B) prosecutors;

7 “(C) medical examiners;

8 “(D) investigators; and

9 “(E) coroners.

10 “(11) LONG-TERM CARE.—

11 “(A) IN GENERAL.—The term ‘long-term
 12 care’ means a wide range of supportive and
 13 health services for individuals who need assist-
 14 ance because the individuals have a loss of ca-
 15 pacity for self-care due to illness or vulner-
 16 ability.

17 “(B) NEED FOR ASSISTANCE.—For pur-
 18 poses of subparagraph (A), a need for assist-
 19 ance is often measured in terms of the capa-
 20 bility to engage in activities of daily living, in-
 21 cluding eating, dressing, and bathing.

22 “(12) LONG-TERM CARE FACILITY.—The term
 23 ‘long-term care facility’ means a residential care pro-
 24 vider that arranges for, or directly provides, long-
 25 term care.

1 “(13) NEGLECT.—The term ‘neglect’ means—

2 “(A) the failure to provide for oneself the
3 goods or services that are necessary to avoid
4 physical harm, mental anguish, or mental ill-
5 ness; or

6 “(B) the failure of a caregiver to provide
7 the goods or services that are necessary to
8 avoid physical harm, mental anguish, or mental
9 illness.

10 “(14) NURSING FACILITY.—The term ‘nursing
11 facility’ has the meaning given such term under sec-
12 tion 1919(a).

13 “(15) SERIOUS BODILY INJURY.—

14 “(A) IN GENERAL.—The term ‘serious
15 bodily injury’ means an injury—

16 “(i) involving extreme physical pain;

17 “(ii) involving substantial risk of
18 death;

19 “(iii) involving protracted loss or im-
20 pairment of the function of a bodily mem-
21 ber, organ, or mental faculty; or

22 “(iv) requiring medical intervention
23 such as surgery, hospitalization, or phys-
24 ical rehabilitation.

1 “(B) CRIMINAL SEXUAL ABUSE.—Serious
 2 bodily injury shall be considered to have oc-
 3 curred if the conduct causing the injury is con-
 4 duct constituting aggravated sexual abuse
 5 under section 2241, or sexual abuse under sec-
 6 tion 2242, of title 18, United States Code, or
 7 any similar offense under State law.

8 “(16) STATE.—The term ‘State’ means any of
 9 the several States, the District of Columbia, the
 10 Commonwealth of Puerto Rico, and any other pos-
 11 session or territory of the United States.

12 “(17) STATE LONG-TERM CARE OMBUDSMAN.—
 13 The term ‘State Long-Term Care Ombudsman’
 14 means the State Long-Term Care Ombudsman de-
 15 scribed in section 712(a)(2) of the Older Americans
 16 Act of 1965 (42 U.S.C. 3058g(a)(2)).

17 “(18) UNDERSERVED POPULATION.—The term
 18 ‘underserved population’ means the population of an
 19 area designated by the Secretary as an area with a
 20 shortage of elder justice programs or a population
 21 group designated by the Secretary as having a short-
 22 age of such programs. Such areas or groups des-
 23 ignated by the Secretary may include—

24 “(A) areas or groups that are geographi-
 25 cally isolated (such as isolated in a rural area);

1 “(B) racial and ethnic minority popu-
2 lations; and

3 “(C) populations underserved because of
4 special needs (such as language barriers, dis-
5 abilities, alien status, or age).

6 “(19) VULNERABLE ADULT.—The term ‘vulner-
7 able adult’ means an adult, including an adult who
8 is not yet an elder but who, due to a developmental,
9 cognitive, psychological, physical, or other type of
10 disability, needs protections and programs that are
11 the same as or similar to protections and programs
12 for elders.

13 **“Subtitle A—Federal Elder Justice** 14 **System**

15 **“SEC. 2211. OFFICE OF ELDER JUSTICE OF THE DEPART-** 16 **MENT OF HEALTH AND HUMAN SERVICES.**

17 “(a) ESTABLISHMENT.—There is established within
18 the Department of Health and Human Services under the
19 Assistant Secretary for Aging an Office of Elder Justice.

20 “(b) DIRECTOR.—

21 “(1) APPOINTMENT.—The President, with the
22 advice and consent of the Senate, shall appoint a Di-
23 rector of the Office of Elder Justice, from among in-
24 dividuals with experience and expertise in elder jus-

1 tice issues, to manage the Office of Elder Justice es-
2 tablished under this section.

3 “(2) DUTIES.—The Director of the Office of
4 Elder Justice shall—

5 “(A)(i) develop objectives, priorities, policy,
6 and a long-term plan for elder justice programs
7 and activities relating to prevention, detection,
8 training, treatment, evaluation, intervention, re-
9 search, and improvement of the elder justice
10 system in the United States;

11 “(ii) implement the overall policy and a
12 strategy to carry out the plan described in
13 clause (i); and

14 “(iii) hire personnel to assist the director
15 in carrying out the policy, program, and admin-
16 istrative activities related to the duties under
17 clauses (i) and (ii);

18 “(B) provide advice to the Secretary on
19 elder justice issues; and

20 “(C) coordinate activities with the Senior
21 Advisor on Elder Justice.

22 “(3) REPORTING RELATIONSHIP.—The Director
23 of the Office of Elder Justice shall report to the As-
24 sistant Secretary for Aging.

1 “(4) COMPENSATION.—The Director shall be
2 compensated at a rate that shall not exceed the rate
3 established for level I of the Executive Schedule
4 under section 5312 of title 5, United States Code.

5 “(c) SENIOR ADVISOR.—

6 “(1) APPOINTMENT.—The Secretary shall ap-
7 point a Senior Advisor on Elder Justice, from
8 among individuals with experience and expertise in
9 elder justice issues.

10 “(2) DUTIES.—The Senior Advisor on Elder
11 Justice shall—

12 “(A) coordinate elder justice activities
13 between—

14 “(i) the Office of Elder Justice;

15 “(ii) other offices within the Adminis-
16 tration on Aging that are involved with
17 elder justice issues; and

18 “(iii) any other office or division of
19 the Department of Health and Human
20 Services that the Secretary considers ap-
21 propriate for such coordination;

22 “(B) serve as the chairperson of the Intra-
23 Agency Elder Justice Steering Committee es-
24 tablished under section 2212; and

1 “(C) provide advice to the Secretary on
2 elder justice issues.

3 “(3) LOCATION.—The Senior Advisor on Elder
4 Justice shall be located in the Office of the Sec-
5 retary.

6 “(4) POSITION.—The position of the Senior Ad-
7 visor on Elder Justice shall be a Senior Executive
8 Service position, as defined in section 3132 of title
9 5, United States Code.

10 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to carry out this section
12 such sums as may be necessary for each of fiscal years
13 2003 through 2009.

14 **“SEC. 2212. HEALTH AND HUMAN SERVICES INTRA-AGENCY**
15 **ELDER JUSTICE STEERING COMMITTEE.**

16 “(a) IN GENERAL.—There is established within the
17 Department of Health and Human Services an Intra-
18 Agency Elder Justice Steering Committee (in this section
19 referred to as the ‘steering committee’) to coordinate the
20 elder justice programs and policy of the Department of
21 Health and Human Services.

22 “(b) MEMBERSHIP.—The steering committee shall be
23 composed of representatives, appointed by the Secretary,
24 from—

25 “(1) the Administration on Aging;

1 “(2) the National Institute on Aging;

2 “(3) the Centers for Medicare & Medicaid Serv-
3 ices;

4 “(4) the Centers for Disease Control and Pre-
5 vention;

6 “(5) the Agency for Healthcare Research and
7 Quality;

8 “(6) the Administration for Children and Fami-
9 lies;

10 “(7) the Office of the Assistant Secretary for
11 Planning and Evaluation;

12 “(8) the Health Resources and Services Admin-
13 istration;

14 “(9) the Substance Abuse and Mental Health
15 Services Administration;

16 “(10) the Indian Health Service; and

17 “(11) such other offices or divisions within the
18 Department of Health and Human Services as the
19 Secretary determines appropriate.

20 “(c) DUTIES.—The steering committee shall coordi-
21 nate elder justice matters for the Department of Health
22 and Human Services to enhance programs and collabora-
23 tions and to avoid unnecessary duplication of efforts.

1 **“SEC. 2213. ELDER JUSTICE COORDINATING COUNCIL.**

2 “(a) ESTABLISHMENT.—There is established a com-
3 mittee to be known as the Elder Justice Coordinating
4 Council (in this section referred to as the ‘Council’).

5 “(b) MEMBERSHIP.—The Council shall be composed
6 of the following:

7 “(1) The Secretary (or the Secretary’s des-
8 ignee).

9 “(2) The Attorney General (or the Attorney
10 General’s designee).

11 “(3) A representative, appointed by the head of
12 the Federal department or agency, or other entity,
13 involved from—

14 “(A) the Department of Housing and
15 Urban Development;

16 “(B) the Department of Education;

17 “(C) the Department of Labor;

18 “(D) the Department of Transportation;

19 “(E) the Department of the Treasury;

20 “(F) the Office of Management and Budg-

21 et;

22 “(G) the Office of the Surgeon General;

23 “(H) the Social Security Administration;

24 “(I) the Food and Drug Administration;

25 “(J) the Federal Trade Commission;

26 “(K) the Department of Commerce;

1 “(L) the Pension Benefit Guaranty Cor-
2 poration;

3 “(M) the Securities and Exchange Com-
4 mission;

5 “(N) the Commodity Futures Trading
6 Commission;

7 “(O) the Board of Governors of the Fed-
8 eral Reserve System;

9 “(P) the Office of the Comptroller of the
10 Currency;

11 “(Q) the Federal Deposit Insurance Cor-
12 poration;

13 “(R) the Federal Bureau of Investigation;

14 “(S) the Centers for Disease Control and
15 Prevention;

16 “(T) the Secret Service;

17 “(U) the National Institute on Aging;

18 “(V) the National Research Council of the
19 National Academy of Sciences;

20 “(W) the Institute of Medicine of the Na-
21 tional Academy of Sciences;

22 “(X) the Internal Revenue Service; and

23 “(Y) the United States Postal Service.

24 “(4) Representatives from other Federal agen-
25 cies, appointed by the heads of the Federal agencies

1 with responsibilities or programs relating to elder
 2 abuse, neglect, and exploitation as determined ap-
 3 propriate by the Secretary and the Attorney Gen-
 4 eral.

5 “(5) One representative from each State, rep-
 6 resenting State and local governments, designated
 7 by the Governor of such State from among individ-
 8 uals actively working in the area of elder justice.

9 “(6) The members of the advisory board estab-
 10 lished under section 2214.

11 “(c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-
 12 bers shall be appointed for the life of the Council. Any
 13 vacancy in the Council shall not affect its powers, but shall
 14 be filled in the same manner as the original appointment
 15 was made.

16 “(d) CO-CHAIRPERSONS.—The Council shall be co-
 17 chaired by the Secretary and the Attorney General (or
 18 their designees).

19 “(e) MEETINGS.—

20 “(1) IN GENERAL.—The Council shall meet at
 21 least 2 times per year as determined by the co-chair-
 22 persons.

23 “(2) ELDER JUSTICE SUMMIT.—

24 “(A) IN GENERAL.—One of the meetings
 25 described in paragraph (1) shall be an Elder

Justice Summit to review the state of elder justice, including—

“(i) a summary presentation directly to the Secretary and the Attorney General regarding—

“(I) the nature and dimension of the problems of elder abuse, neglect, and exploitation;

“(II) Federal, State, local, and private efforts in elder justice;

“(III) challenges to be faced in elder justice;

“(IV) promising practices in elder justice; and

“(V) plans and priorities for the future in elder justice;

“(ii) additional presentations to address in greater detail those topics described in clause (i); and

“(iii) presentations on such other topics as the Council determines appropriate.

“(B) PARTICIPANTS.—Additional participants, in addition to the members of the Council, to be invited to the Elder Justice Summit shall include—

1 “(i) experts in the fields of elder
2 abuse, neglect, and exploitation, selected by
3 the co-chairpersons;

4 “(ii) the chairman and ranking mem-
5 ber of the Special Committee on Aging of
6 the Senate;

7 “(iii) designees of the Speaker of the
8 House of Representatives and the minority
9 leader of the House of Representatives;
10 and

11 “(iv) governmental representatives in-
12 vited jointly by the co-chairpersons,
13 including—

14 “(I) 1 representative from the
15 Federal Government;

16 “(II) 1 representative from a
17 State government; and

18 “(III) 1 representative from a
19 local government.

20 “(C) ADDITIONAL OBSERVERS.—Addi-
21 tional observers of the Elder Justice Summit
22 may include representatives of Federal, State,
23 and local public and private entities, as well as
24 experts and members of the public designated
25 by the Council to be observers.

1 “(3) OTHER MEETINGS.—In addition to the
 2 meeting described in paragraph (2), the Council
 3 shall have at least 1 additional meeting per year in
 4 order to—

5 “(A) conduct an in-depth analysis of the
 6 numerous phenomena that make up elder
 7 abuse, neglect, and exploitation;

8 “(B) permit participants to highlight
 9 promising practices, exchange information
 10 about addressing challenges, and identify needs
 11 and priorities; and

12 “(C) determine a procedure for examining
 13 and eliciting national elder justice issues and
 14 priorities in order to guide the Council.

15 “(f) DUTIES.—

16 “(1) IN GENERAL.—The Council shall make
 17 recommendations for the coordination of activities,
 18 relating to elder abuse, neglect, and exploitation and
 19 other crimes against elders, to the Department of
 20 Health and Human Services, the Department of
 21 Justice, and other relevant Federal, State, local, and
 22 private agencies and entities.

23 “(2) REPORT.—Not later than 2 years after the
 24 date of enactment of the Elder Justice Act and

every 2 years thereafter, the Council shall provide to Congress a report that—

“(A) describes the activities of, accomplishments of, and challenges faced by—

“(i) the Council; and

“(ii) the entities represented on the Council; and

“(B) makes recommendations for legislation, model laws, or other appropriate action.

“(g) POWERS OF THE COUNCIL.—

“(1) HEARINGS.—The Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Council considers advisable to carry out this section.

“(2) INFORMATION FROM FEDERAL AGENCIES.—The Council may secure directly from any Federal department or agency such information as the Council considers necessary to carry out this section. Upon request of the co-chairpersons of the Council, the head of such department or agency shall furnish such information to the Council.

“(3) POSTAL SERVICES.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

1 “(h) TRAVEL EXPENSES.—The members of the
2 Council, and the participants in and observers of the Elder
3 Justice Summit shall not receive compensation for the per-
4 formance of services for the council. The members shall
5 be allowed, and the participants may be allowed, travel
6 expenses, including per diem in lieu of subsistence, at
7 rates authorized for employees of agencies under sub-
8 chapter I of chapter 57 of title 5, United States Code,
9 while away from their homes or regular places of business
10 in the performance of services for the Council. Notwith-
11 standing section 1342 of title 31, United States Code, the
12 Secretary and the Attorney General may accept the vol-
13 untary and uncompensated services of the members and
14 the participants.

15 “(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any
16 Federal Government employee may be detailed to the
17 Council without reimbursement, and such detail shall be
18 without interruption or loss of civil service status or privi-
19 lege.

20 “(j) EFFECTIVE DATE.—Section 14 of the Federal
21 Advisory Committee Act (5 U.S.C. App.) shall not apply
22 to the Council.

23 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this section

1 such sums as may be necessary for each of fiscal years
2 2003 through 2009.

3 **“SEC. 2214. ADVISORY BOARD ON ELDER ABUSE, NEGLECT,**
4 **AND EXPLOITATION.**

5 “(a) ESTABLISHMENT.—There is established a board
6 to be known as the ‘Advisory Board on Elder Abuse, Ne-
7 glect, and Exploitation’ (in this section referred to as the
8 ‘advisory board’) to make recommendations to the Sec-
9 retary, the Attorney General, the Elder Justice Coordi-
10 nating Council established under section 2213, and the ap-
11 propriate committees of Congress concerning specific
12 issues relating to elder justice.

13 “(b) SOLICITATION OF NOMINATIONS.—The Sec-
14 retary and the Attorney General shall jointly publish a no-
15 tice in the Federal Register soliciting nominations for the
16 appointment of members of the advisory board under sub-
17 section (c).

18 “(c) COMPOSITION.—The advisory board shall be
19 composed of members appointed jointly by the Secretary
20 and the Attorney General, from the general public who
21 are individuals with expertise in elder abuse, neglect, and
22 exploitation prevention, intervention, treatment, or re-
23 search, with due consideration to representation of ethnic
24 or racial minorities and diverse geographic areas, includ-
25 ing individuals who represent—

1 “(1) social service providers (including State
2 agencies with the responsibility for adult protective
3 services);

4 “(2) health care providers (including geriatrics,
5 emergency medicine, and nursing and mental health
6 professionals);

7 “(3) legal professionals (including law enforce-
8 ment and the judiciary);

9 “(4) gerontologists;

10 “(5) psychologists;

11 “(6) State and local government;

12 “(7) organizations providing services to elders
13 and disabled persons;

14 “(8) volunteer groups;

15 “(9) elder rights advocates;

16 “(10) family groups; and

17 “(11) individuals in forensics-related positions
18 (including coroners and forensic pathologists).

19 “(d) VACANCIES.—Members shall be appointed for
20 terms of 6 years. Any vacancy in the advisory board shall
21 not affect its powers, but shall be filled in the same man-
22 ner as the original appointment was made.

23 “(e) ELECTION OF OFFICERS.—The advisory board
24 shall elect a chairperson and vice chairperson from among
25 the members of the advisory board. The advisory board

1 shall elect its initial chairperson and vice chairperson at
2 its initial meeting.

3 “(f) DUTIES.—Not later than 18 months after the
4 establishment of the advisory board under subsection (a),
5 and annually thereafter, the advisory board shall prepare
6 and submit to the Secretary, the Attorney General, and
7 the appropriate committees of Congress a report
8 containing—

9 “(1) information on the status of Federal,
10 State, and local public and private elder justice ac-
11 tivities;

12 “(2) recommendations (including recommended
13 priorities) regarding elder justice programs, re-
14 search, training, services, practice, enforcement, and
15 coordination, as well as coordination between entities
16 pursuing elder justice efforts and those involved in
17 related areas that may inform or overlap with elder
18 justice efforts, such as activities to combat violence
19 against women;

20 “(3) recommendations for specific modifications
21 needed in Federal and State laws (including regula-
22 tions) or for programs, research, and training to en-
23 hance prevention, detection, diagnosis, treatment,
24 intervention in, investigation, and prosecution of
25 elder abuse, neglect, and exploitation; and

1 “(4) recommendations for the most effective co-
2 ordinated national data collection with respect to
3 elder justice, and elder abuse, neglect, and exploi-
4 tation.

5 “(g) POWERS OF THE ADVISORY BOARD.—

6 “(1) HEARINGS.—The advisory board may hold
7 such hearings, sit and act at such times and places,
8 take such testimony, and receive such evidence as
9 the advisory board considers advisable to carry out
10 this section.

11 “(2) INFORMATION FROM FEDERAL AGEN-
12 CIES.—The advisory board may secure directly from
13 any Federal department or agency such information
14 as the advisory board considers necessary to carry
15 out this section. Upon request of the co-chairpersons
16 of the advisory board, the head of such department
17 or agency shall furnish such information to the advi-
18 sory board.

19 “(3) POSTAL SERVICES.—The advisory board
20 may use the United States mails in the same man-
21 ner and under the same conditions as other depart-
22 ments and agencies of the Federal Government.

23 “(h) TRAVEL EXPENSES.—The members of the advi-
24 sory board shall not receive compensation for the perform-
25 ance of services for the advisory board, but shall be al-

1 lowed travel expenses, including per diem in lieu of sub-
 2 sistence, at rates authorized for employees of agencies
 3 under subchapter I of chapter 57 of title 5, United States
 4 Code, while away from their homes or regular places of
 5 business in the performance of services for the advisory
 6 board. Notwithstanding section 1342 of title 31, United
 7 States Code, the Secretary and the Attorney General may
 8 accept the voluntary and uncompensated services of the
 9 members of the advisory board.

10 “(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any
 11 Federal Government employee may be detailed to the advi-
 12 sory board without reimbursement, and such detail shall
 13 be without interruption or loss of civil service status or
 14 privilege.

15 “(j) EFFECTIVE DATE.—Section 14 of the Federal
 16 Advisory Committee Act (5 U.S.C. App.) shall not apply
 17 to the advisory board.

18 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
 19 are authorized to be appropriated to carry out this section
 20 such sums as may be necessary for each of fiscal years
 21 2003 through 2009.

22 **“Subtitle B—Activities to Promote** 23 **Elder Justice**

24 **“SEC. 2221. DATA COLLECTION AND DISSEMINATION.**

25 “(a) ELDER JUSTICE RESOURCE CENTER.—

1 “(1) ESTABLISHMENT.—The Secretary shall es-
2 tablish within the Office of Elder Justice (estab-
3 lished under this title), an Elder Justice Resource
4 Center (in this section referred to as the ‘Center’)
5 to be the central repository for information regard-
6 ing elder abuse, neglect, and exploitation.

7 “(2) DUTIES.—The Center shall—

8 “(A) develop the capacity and procedures
9 to collect, maintain, and disseminate informa-
10 tion relevant to consumers, families, providers,
11 clinicians, advocates, regulators, law enforce-
12 ment, policymakers, and researchers relevant to
13 the prevention, detection, assessment, identi-
14 fication, and treatment of, intervention in, and
15 prosecution of, elder abuse, neglect, and exploi-
16 tation;

17 “(B) provide, in a user-friendly manner,
18 information on how to avoid becoming a victim
19 of elder abuse, neglect, or exploitation for elders
20 and families;

21 “(C) provide links and references to other
22 sources of information;

23 “(D) compile, analyze, and publish a sum-
24 mary of research conducted on elder abuse, ne-

1 glect, and exploitation and information on how
2 to obtain the original research materials;

3 “(E) solicit public comment and comment
4 from the advisory board established under sec-
5 tion 2214 on the activities of the Center;

6 “(F) establish a toll-free number for infor-
7 mation and referrals;

8 “(G) coordinate activities with resource
9 centers and clearinghouses on elder justice top-
10 ics; and

11 “(H) provide funding to public and private
12 agencies and entities to develop or continue the
13 efforts of specialized elder justice clearing-
14 houses that will be linked to the Center, for ex-
15 ample resource centers that provide effective
16 services.

17 “(3) COORDINATION OF AVAILABLE RE-
18 SOURCES.—In establishing the Center under this
19 subsection the Secretary, after consultation with the
20 Attorney General, shall—

21 “(A) consult with other Federal agencies
22 that operate similar resource centers;

23 “(B) consult with private entities that op-
24 erate resource centers or clearinghouses on
25 elder justice related topics;

“(C) consult with the head of each agency participating in the Elder Justice Coordinating Council established under section 2213, as well as other agencies with clearinghouses comparable to the Center, such as child abuse clearinghouses, to determine the most efficient and effective manner for collecting, maintaining, and disseminating information on elder abuse, neglect, and exploitation; and

“(D) solicit public comment on the components of such Center.

“(4) NATIONAL ELDER JUSTICE LIBRARY.—

“(A) ESTABLISHMENT.—The Secretary shall establish within the Center, a National Elder Justice Library (in this paragraph referred to as the ‘Library’) to serve as a centralized repository for all types of materials concerning training, technical assistance, and promising practices relating to elder justice including—

“(i) brochures and pamphlets;

“(ii) video and computer-based resources;

“(iii) books; and

“(iv) training materials.

1 “(B) INDEX.—The Library shall create
2 and maintain an up-to-date index of the mate-
3 rials described in subparagraph (A) by title, au-
4 thor, date, subject, and type of material, and a
5 brief description of such materials. Such index
6 shall be available on the Internet as well as in
7 printed form in order to be easily accessible to
8 the general public.

9 “(C) AVAILABILITY.—The materials held
10 by the Library shall be available for copying by
11 individuals and entities nationwide and shall be
12 disseminated at a nominal or no fee. The mate-
13 rials shall be copied and disseminated in ac-
14 cordance with the applicable provisions of title
15 17, United States Code.

16 “(D) DUTIES.—

17 “(i) ADDITIONAL MATERIALS.—The
18 Library shall—

19 “(I) collect data on materials
20 that would be appropriate for such li-
21 brary;

22 “(II) make efforts to identify and
23 obtain appropriate materials; and

24 “(III) identify and obtain mate-
25 rials relating to effective methods of

1 conducting training and providing
2 technical assistance relating to elder
3 justice, including conducting the
4 training and providing the assistance
5 for underserved populations.

6 “(ii) INFORMATION PACKETS.—After
7 evaluating the materials described in this
8 paragraph, the Library shall compile and
9 develop information packets for use by
10 groups in various settings including groups
11 who are underserved or have other special
12 needs. Such information packets shall in-
13 clude information and materials on train-
14 ing, technical assistance, and promising
15 practices targeted at specific topics,
16 groups, and settings.

17 “(5) AUTHORIZATION OF APPROPRIATIONS.—
18 There are authorized to be appropriated to carry out
19 this subsection such sums as may be necessary for
20 each of fiscal years 2003 through 2009.

21 “(b) COLLECTION OF UNIFORM NATIONAL DATA ON
22 ELDER ABUSE, NEGLECT, AND EXPLOITATION.—

23 “(1) PURPOSE.—The purpose of this subsection
24 is to improve, streamline, and promote uniform col-
25 lection, maintenance, and dissemination of national

1 data relating to elder abuse, neglect, and exploi-
2 tation.

3 “(2) PHASE I.—

4 “(A) IN GENERAL.—Not later than 1 year
5 after the date of enactment of the Elder Justice
6 Act, the Director of the Centers for Disease
7 Control and Prevention (in this subsection re-
8 ferred to as the ‘Director’), working with ex-
9 perts in relevant disciplines, shall—

10 “(i) develop a method for collecting
11 national data regarding elder abuse, ne-
12 glect, and exploitation; and

13 “(ii) develop uniform national data re-
14 porting forms adapted to each relevant en-
15 tity or discipline (such as law, health (in-
16 cluding public safety), and social services)
17 reflecting the distinct manner in which
18 each discipline receives and maintains in-
19 formation.

20 “(B) FORMS.—The national data reporting
21 forms described in subparagraph (A)(ii) shall
22 incorporate the definitions of this title, for use
23 in determining what is considered a reportable
24 event.

25 “(3) PHASE II.—

“(A) IN GENERAL.—Not later than 1 year after the completion of the activities described in paragraph (2), the Director shall ensure that the national data reporting forms and data collection methods developed in accordance with such paragraph are pilot tested in 6 States determined by the Director.

“(B) ADJUSTMENTS TO THE FORM AND METHODS.—The Director, after considering the results of the pilot testing described in subparagraph (A), and after consultation with relevant experts shall adjust the national data reporting forms and data collection methods as necessary.

“(4) PHASE III.—

“(A) DISTRIBUTION OF NATIONAL DATA REPORTING FORMS.—After completion of the adjustment to the national data reporting forms under paragraph (3)(B), the Director shall submit the national data reporting forms along with instructions to—

“(i) the Governor’s office of each State; and

“(ii) the entity within each State primarily responsible for aging issues as determined by the Director.

1 “(B) DATA COLLECTION GRANTS.—

2 “(i) AUTHORIZATION.—The Director
3 is authorized to award grants to States to
4 improve elder abuse, neglect, and exploi-
5 tation data collection activities.

6 “(ii) AMOUNT.—The amount of funds
7 provided under each grant awarded to a
8 State under this subsection shall not ex-
9 ceed \$200,000, to be distributed in accord-
10 ance with clause (v).

11 “(iii) APPLICATION.—Each State de-
12 siring a grant under this subparagraph
13 shall submit to the Director an application
14 at such time, in such manner, and con-
15 taining such information as the Director
16 may require.

17 “(iv) REQUIREMENTS.—Each State
18 receiving a grant under this subparagraph
19 for a fiscal year is required to report data
20 for the calendar year that begins during
21 that fiscal year, using the national data re-
22 porting forms described in subparagraph
23 (A).

24 “(v) FUNDING.—

1 “(I) FIRST YEAR.—For the first
2 fiscal year in which a State receives
3 grant funds under this subsection the
4 Director shall initially distribute 50
5 percent of such funds. The Director
6 shall distribute the remaining funds at
7 the end of the calendar year that be-
8 gins during that fiscal year, if the Di-
9 rector determines that the State has
10 properly reported data required under
11 this subsection for the calendar year.

12 “(II) SUBSEQUENT YEARS.—Ex-
13 cept as provided in subclause (I), the
14 Director shall distribute grant funds
15 to a State under this subsection for a
16 fiscal year if the Director determines
17 that the State properly reported data
18 required under this subsection for the
19 calendar year that ends during that
20 fiscal year.

21 “(C) REQUIRED INFORMATION.—Each re-
22 port submitted under this paragraph shall re-
23 ceive an identifier beginning with a 2-letter
24 State code, and a 2-letter year code, and such
25 numbers as the Director determines to be ap-

1 appropriate. Each individual report shall be as-
2 signed a new identifier, even if a victim de-
3 scribed in the report is reported to have been
4 victimized more than once. If the State submits
5 a report for more than one discipline, the State
6 shall submit a combined report to avoid double
7 counting. The State shall note in each report
8 whether an event was ongoing or occurred in
9 distinct separate episodes.

10 “(5) REPORT.—Not later than 1 year after the
11 date of enactment of the Elder Justice Act and an-
12 nually thereafter, the Director shall prepare and
13 submit to the appropriate committees of Congress,
14 including to the Special Committee on Aging of the
15 Senate, a report regarding activities conducted
16 under this subsection.

17 “(6) ADMINISTRATION.—The Director shall
18 carry out this subsection directly or through grants,
19 contracts, or cooperative agreements.

20 “(7) REGULATIONS.—The Secretary shall pro-
21 mulgate such regulations as are necessary to carry
22 out this subsection.

23 “(8) AUTHORIZATION OF APPROPRIATIONS.—
24 There are authorized to be appropriated to carry out
25 this subsection such sums as may be necessary for

1 each of fiscal years 2003 through 2009, with such
 2 sums to remain available until expended.

3 **“SEC. 2222. ENHANCING RESEARCH AND TRAINING AND**
 4 **STRENGTHENING SERVICES AND PREVEN-**
 5 **TION.**

6 “(a) GRANTS, CONTRACTS, AND COOPERATIVE
 7 AGREEMENTS AUTHORIZED.—

8 “(1) IN GENERAL.—The Secretary may award
 9 grants, contracts, or cooperative agreements to eligi-
 10 ble entities for the prevention, detection, assessment,
 11 and treatment of, intervention in, investigation of,
 12 and prosecution of elder abuse, neglect, and exploi-
 13 tation including—

14 “(A) physical, psychological, and emotional
 15 abuse and neglect by family and other in-home
 16 caregivers;

17 “(B) physical, psychological, and emotional
 18 abuse and neglect of residents in institutional
 19 and other residential care facilities;

20 “(C) elder sexual abuse;

21 “(D) domestic violence in later life;

22 “(E) financial fraud and exploitation; and

23 “(F) self-neglect.

24 “(2) AUTHORIZATION OF APPROPRIATIONS.—

25 There are authorized to be appropriated to carry out

1 this subsection, such sums as may be necessary for
 2 each of fiscal years 2003 through 2009.

3 “(b) CENTERS OF EXCELLENCE.—

4 “(1) GRANTS AUTHORIZED.—The Secretary,
 5 through the Director of the National Institute on
 6 Aging, after consultation with the Director of the
 7 Centers for Disease Control and Prevention, the Di-
 8 rector of the Office of Elder Justice in the Depart-
 9 ment of Health and Human Services, the Director of
 10 the Office of Elder Justice in the Department of
 11 Justice, and the members of the advisory board es-
 12 tablished under section 2214, may award grants to
 13 institutions of higher education, to establish 5 Cen-
 14 ters of Excellence nationwide that shall specialize in
 15 research, clinical practice, and training relating to
 16 elder abuse, neglect, and exploitation.

17 “(2) AUTHORIZED ACTIVITIES.—The Centers of
 18 Excellence established with funds provided under
 19 paragraph (1) shall conduct the following activities:

20 “(A) Examine potential issues relating to
 21 the protection of elders who are the subjects of
 22 research on elder abuse, neglect, and exploi-
 23 tation and provide guidance to other elder
 24 abuse, neglect, or exploitation researchers re-
 25 garding human subjects, protections, and the

1 institutional or peer review boards at research
2 institutions.

3 “(B) After consultation with the Director
4 of the National Institute on Aging, and the Di-
5 rector of the Office of Human Research Protec-
6 tions, develop and recommend to the Secretary
7 guidelines to assist the institutional or peer re-
8 view boards in the review of research under this
9 title.

10 “(C) Coordinate activities, to the extent
11 feasible, among the Centers and with other re-
12 searchers of elder abuse, neglect, and exploi-
13 tation and related areas, and designate 1 such
14 Center to lead such coordination.

15 “(3) ADDITIONAL ACTIVITIES.—The Centers of
16 Excellence established under paragraph (1) may con-
17 duct the following activities:

18 “(A) Carrying out a study to determine
19 the incidence and prevalence of elder abuse, ne-
20 glect, and exploitation in all settings.

21 “(B) Developing uniform, validated screen-
22 ing tools to assist individuals, families, practi-
23 tioners, institutions, and communities in detect-
24 ing ongoing or potential elder abuse, neglect,

1 and exploitation. The tools that may be devel-
 2 oped include—

3 “(i) a screening tool to determine
 4 whether a particular elder is at risk for be-
 5 coming, or is, a victim;

6 “(ii) a screening tool to measure
 7 whether caregivers are at risk of commit-
 8 ting elder abuse, neglect, or exploitation;

9 “(iii) a screening tool to measure
 10 whether families are at risk for elder
 11 abuse, neglect, and exploitation; and

12 “(iv) a screening tool to assess com-
 13 munities, evaluating how each individual
 14 agency or system relating to elder abuse,
 15 neglect, or exploitation operates in such a
 16 community and how all of such agencies or
 17 systems communicate and operate in rela-
 18 tionship to each other within such commu-
 19 nity.

20 “(C) Carrying out various types of inter-
 21 vention research.

22 “(D) Identifying steps that can be taken
 23 (and replicated) to make homes, neighborhoods,
 24 communities, and facilities safer for elders, and

1 to enhance their sense of security in all kinds
2 of environments.

3 “(4) COLLABORATION AND ACCESS TO
4 RECORDS.—In awarding a grant under this sub-
5 section the Secretary shall—

6 “(A) consider the potential for collabora-
7 tion among researchers and other relevant enti-
8 ties, such as State agencies with responsibility
9 for adult protective services and State Long-
10 Term Care Ombudsmen, that receive reports of
11 elder abuse, neglect, and exploitation, but that
12 may be restricted from participating in research
13 as a result of State law, confidentiality require-
14 ments, or other provisions; and

15 “(B) require that each institution of higher
16 education desiring a grant under this subsection
17 ensure that the researchers working at such in-
18 stitution will have access to records necessary
19 to conduct research in accordance with this sub-
20 section.

21 “(5) EXCELLENCE ADVISORY COMMITTEE.—

22 “(A) COMMITTEE ESTABLISHED.—There is
23 established in the Department of Health and
24 Human Services an Excellence Advisory Com-

1 mittee (in this subsection referred to as the
2 ‘Committee’).

3 “(B) MEMBERSHIP.—The Committee shall
4 be composed of individuals appointed by the
5 Secretary with a demonstrated interest and ex-
6 pertise in research, education, and clinical ac-
7 tivities related to elder abuse, neglect, and ex-
8 ploitation or individuals with related experience
9 in epidemiology or forensic pathology
10 including—

11 “(i) representatives from private enti-
12 ties; and

13 “(ii) representatives from Federal and
14 State agencies, including—

15 “(I) researchers;

16 “(II) health care practitioners;

17 “(III) policy experts; and

18 “(IV) other individuals appro-
19 pate to promote useful research,
20 training, and clinical practice.

21 “(C) PERIOD OF APPOINTMENT; VACAN-
22 CIES.—Members shall be appointed for the life
23 of the Committee. Any vacancy in the Com-
24 mittee shall not affect its powers, but shall be

1 filled in the same manner as the original ap-
2 pointment was made.

3 “(D) DUTIES.—The Committee shall make
4 recommendations to the Secretary, the Attorney
5 General, the Elder Justice Coordinating Council
6 established under section 2213, and the Centers
7 of Excellence established under this subsection
8 concerning—

9 “(i) facilitating the coordination of the
10 activities of the Centers of Excellence es-
11 tablished under this subsection;

12 “(ii) developing procedures and mech-
13 anisms for data sharing between such Cen-
14 ters of Excellence; and

15 “(iii) ensuring that such Centers of
16 Excellence have similar systems and re-
17 search and reporting procedures in order
18 to facilitate the sharing of data.

19 “(E) TRAVEL EXPENSES.—The members
20 of the Committee shall not receive compensa-
21 tion for the performance of services for the
22 committee, but shall be allowed travel expenses,
23 including per diem in lieu of subsistence, at
24 rates authorized for employees of agencies
25 under subchapter I of chapter 57 of title 5,

1 United States Code, while away from their
 2 homes or regular places of business in the per-
 3 formance of services for the Committee. Not-
 4 withstanding section 1342 of title 31, United
 5 States Code, the Secretary may accept the vol-
 6 untary and uncompensated services of members
 7 of the Committee.

8 “(F) DETAIL OF GOVERNMENT EMPLOY-
 9 EES.—Any Federal Government employee may
 10 be detailed to the Committee without reim-
 11 bursement, and such detail shall be without
 12 interruption or loss of civil service status or
 13 privilege.

14 “(G) TERMINATION.—Section 14 of the
 15 Federal Advisory Committee Act (5 U.S.C.
 16 App.) shall not apply to the Committee.

17 “(6) AUTHORIZATION OF APPROPRIATIONS.—
 18 There is authorized to be appropriated to carry out
 19 this subsection such sums as may be necessary for
 20 each of fiscal years 2003 through 2009.

21 “(c) SAFE HAVEN AND LEGAL ADVOCACY
 22 GRANTS.—

23 “(1) SAFE HAVEN GRANTS.—

24 “(A) GRANTS AUTHORIZED.—The Sec-
 25 retary may award grants to 6 diverse commu-

1 nities to examine various types of elder shelters
 2 (in this paragraph referred to as ‘safe havens’)
 3 and to test various models for establishing safe
 4 havens.

5 “(B) AUTHORIZED ACTIVITIES.—Grant
 6 funds awarded pursuant to subparagraph (A)
 7 shall be used to establish safe havens that—

8 “(i) provide a comprehensive, cul-
 9 turally sensitive, and multidisciplinary
 10 team response to allegations of elder
 11 abuse, neglect, or exploitation;

12 “(ii) provide a dedicated, elder-friend-
 13 ly setting;

14 “(iii) have the capacity to meet the
 15 needs of elders for care; and

16 “(iv) provide various services
 17 including—

18 “(I) nursing and forensic evalua-
 19 tion;

20 “(II) therapeutic intervention;

21 “(III) victim support and advo-
 22 cacy; and

23 “(IV) case review and assistance
 24 to find appropriate placement in safer
 25 environments, including shelters, and,

1 in some circumstances long-term care
 2 facilities, other residential care facili-
 3 ties, and hospitals.

4 “(2) LEGAL ADVOCACY GRANTS.—

5 “(A) GRANTS AUTHORIZED.—The Sec-
 6 retary, after consultation with the Attorney
 7 General, may award grants—

8 “(i) to study the need for community
 9 resources in order to provide assistance for
 10 legal and related services for victims of
 11 elder abuse, neglect, or exploitation; and

12 “(ii) to provide assistance for such
 13 services.

14 “(B) AUTHORIZED ACTIVITIES.—Grant
 15 funds awarded pursuant to subparagraph (A)
 16 shall be used to provide—

17 “(i) court-appointed advocates;

18 “(ii) public guardians;

19 “(iii) legal services; and

20 “(iv) such other services as the Sec-
 21 retary, after consultation with the Attorney
 22 General, determines appropriate.

23 “(4) AUTHORIZATION OF APPROPRIATIONS.—

24 There are authorized to be appropriated to carry out

1 this subsection such sums as may be necessary for
2 each of fiscal years 2003 through 2009.

3 “(d) GRANTS TO ENHANCE VOLUNTEER SERV-
4 ICES.—

5 “(1) IN GENERAL.—The Secretary, after con-
6 sultation with the Attorney General, may award
7 grants to nonprofit organizations to encourage such
8 organizations to establish or continue volunteer pro-
9 grams that focus on the issues of elder abuse, ne-
10 glect, and exploitation, or that provide related serv-
11 ices.

12 “(2) AUTHORIZATION OF APPROPRIATIONS.—
13 There are authorized to be appropriated to carry out
14 this subsection such sums as may be necessary for
15 each of fiscal years 2003 through 2009.

16 “(e) MULTIDISCIPLINARY EFFORTS.—

17 “(1) GRANTS, CONTRACTS, AND COOPERATIVE
18 AGREEMENTS.—

19 “(A) IN GENERAL.—The Secretary may
20 award grants, cooperative agreements, and con-
21 tracts to fund various multidisciplinary elder
22 justice activities, including the following:

23 “(i) Supporting and studying team
24 approaches for bringing a coordinated mul-
25 tidisciplinary or interdisciplinary response

1 to elder abuse, neglect, and exploitation,
2 including a response from individuals in
3 social service, health care, public safety,
4 and legal disciplines.

5 “(ii) Establishing State coordinating
6 councils modeled after the national Elder
7 Justice Coordinating Council established
8 under section 2213. Such State coordi-
9 nating councils shall identify the individual
10 States’ needs and provide the national
11 Elder Justice Coordinating Council with
12 information and recommendations relating
13 to State efforts to combat elder abuse, ne-
14 glect, and exploitation.

15 “(iii) Providing training, technical as-
16 sistance, and other methods of support to
17 groups carrying out multidisciplinary ef-
18 forts at the State level (referred to in some
19 States as ‘State Working Groups’).

20 “(iv) Broadening and studying various
21 models for elder fatality and serious injury
22 review teams, to make recommendations
23 about their composition, protocols, func-
24 tions, timing, roles, and responsibilities,
25 with a goal of producing models and infor-

1 mation that will allow for replication based
 2 on the needs of other States and commu-
 3 nities.

4 “(v) Carrying out other interdiscipli-
 5 nary or multidisciplinary efforts as deter-
 6 mined by the Secretary to be appropriate.

7 “(B) AUTHORIZATION OF APPROPRIA-
 8 TIONS.—There are authorized to be appro-
 9 priated to carry out this paragraph such sums
 10 as may be necessary for each of fiscal years
 11 2003 through 2009.

12 “(2) INTRADISCIPLINARY REVIEW.—

13 “(A) IN GENERAL.—The Director of the
 14 Centers for Disease Control and Prevention,
 15 after consultation with the Director of the Of-
 16 fice of Elder Justice in the Department of
 17 Health and Human Services and the Director
 18 of the Office of Elder Justice in the Depart-
 19 ment of Justice, shall conduct an intensive
 20 intradisciplinary review of entities that conduct
 21 elder justice activities in several different com-
 22 munities, examining how the entities address
 23 elder abuse, neglect, and exploitation issues
 24 (such as an assessment of State agencies with
 25 the responsibility for adult protective services,

1 various types of health care providers, public
2 safety agencies, law enforcement agencies, pros-
3 ecutor offices, and the judiciary).

4 “(B) GOAL.—The goals of the study de-
5 scribed in subparagraph (A) include—

6 “(i) making an assessment of the
7 functioning and effectiveness of each entity
8 in a community that conducts elder justice
9 activities, and the interdisciplinary commu-
10 nications and collaborations among such
11 entities; and

12 “(ii) developing a procedure for com-
13 munities to conduct a self-assessment to
14 assist them in identifying the manner in
15 which the entities described in clause (i) in
16 such communities respond to elder justice
17 issues, the needs of such communities re-
18 lating to elder justice issues, and ways to
19 improve the response systems of such com-
20 munities for elder abuse, neglect, and ex-
21 ploitation.

22 “(C) AUTHORIZATION OF APPROPRIA-
23 TIONS.—There are authorized to be appro-
24 priated to carry out this paragraph such sums

1 as may be necessary for each of fiscal years
2 2003 through 2009.

3 “(f) TRAINING GRANTS.—

4 “(1) GRANTS AUTHORIZED.—The Secretary
5 may award grants to groups representing the tar-
6 geted disciplines described in paragraph (2)(B) to
7 train individuals with respect to issues of elder
8 abuse, neglect, and exploitation.

9 “(2) AUTHORIZED ACTIVITIES.—

10 “(A) IN GENERAL.—Grant funds awarded
11 under paragraph (1) shall be used for training
12 within a discipline as well as cross-training ac-
13 tivities that permit individuals in multiple dis-
14 ciplines to train together, fostering communica-
15 tion, coordinating efforts, and ensuring collabo-
16 ration.

17 “(B) TARGETED DISCIPLINES.—Groups
18 representing disciplines that will be targeted for
19 training through grants awarded under para-
20 graph (1) include—

21 “(i) physicians (geriatricians, family
22 physicians, internists, emergency physi-
23 cians, forensic pathologists and medical ex-
24 aminers, psychiatrists, and other special-
25 ists);

- 1 “(ii) nurses and nurse’s aides, includ-
2 ing geriatric nurse practitioners, directors
3 of nursing, and Sexual Abuse Nurse Ex-
4 aminers (SANE) nurses;
- 5 “(iii) social workers;
- 6 “(iv) public health and safety profes-
7 sionals including Emergency Medical Serv-
8 ices professionals;
- 9 “(v) therapists, including creative
10 arts, occupational, speech, and physical
11 therapists;
- 12 “(vi) State surveyors (who survey
13 nursing facilities and other long-term care
14 facilities);
- 15 “(vii) long-term care facility and hos-
16 pital staff;
- 17 “(viii) coroners and funeral home op-
18 erators;
- 19 “(ix) Federal, State, and local offices
20 with responsibility for elder justice or long-
21 term care matters;
- 22 “(x) employees of State agencies with
23 responsibility for adult protective services;
- 24 “(xi) State Long-Term Care Ombuds-
25 men;

1 “(xii) victim advocates and advocates
2 for elders and individuals with disabilities;

3 “(xiii) individuals involved in volun-
4 teer organizations (including faith-based
5 organizations) who are involved in issues of
6 elder abuse, neglect, and exploitation;

7 “(xiv) police officers, sheriffs, detec-
8 tives, firefighters, Federal and State inves-
9 tigators, public safety officers, and correc-
10 tions personnel;

11 “(xv) Federal, State, and local pros-
12 ecutors, attorneys in private practice in-
13 volved in elder justice issues, and judges
14 and court employees;

15 “(xvi) TRIADs (federally recognized
16 partnerships of elders, sheriff departments,
17 and the American Association of Retired
18 Persons);

19 “(xvii) elder service officers;

20 “(xviii) individuals who work with the
21 public, including bank personnel, postal
22 workers, utility workers, providers of
23 home-delivered meals, and others who may
24 work with elders; and

1 “(xix) students in professional and
 2 paraprofessional schools, internships, fel-
 3 lowships, and other training programs in a
 4 relevant profession.

5 “(3) AUTHORIZATION OF APPROPRIATIONS.—

6 There are authorized to be appropriated to carry out
 7 this subsection such sums as may be necessary for
 8 each of fiscal years 2003 through 2009.

9 “(g) INCREASING THE NUMBER OF HEALTH CARE
 10 PROFESSIONALS WITH GERIATRIC TRAINING.—

11 “(1) IN GENERAL.—The Secretary shall estab-
 12 lish programs to increase—

13 “(A) the number of health care profes-
 14 sionals (including physicians, nurses, nursing
 15 personnel, social workers, and therapists) and
 16 students in the health care professions, who re-
 17 ceive education and training related to geri-
 18 atrics; and

19 “(B) the number of such professionals who
 20 provide health care related to geriatrics.

21 “(2) AUTHORIZATION OF APPROPRIATIONS.—

22 There are authorized to be appropriated to carry out
 23 this subsection such sums as may be necessary for
 24 each of fiscal years 2003 through 2009.

25 “(h) SPECIAL NEEDS GRANTS.—

1 “(1) GRANTS AUTHORIZED.—The Secretary
2 may award grants to eligible entities to identify, ad-
3 dress, and make recommendations on meeting the
4 special needs of underserved populations of elders.

5 “(2) POPULATIONS INCLUDED.—The grant
6 funds awarded pursuant to paragraph (1) shall be
7 used to fund programs including the following:

8 “(A) RURAL SETTINGS.—Programs de-
9 signed to meet the needs of elders living in
10 rural locations, including the needs of their in-
11 formal caregivers. The programs shall include—

12 “(i) strategies to decrease isolation;

13 “(ii) training for informal caregivers;

14 “(iii) activities involving collaboration
15 between the entities and local secondary
16 schools and institutions of higher education
17 to offer classes for credit, focusing on
18 training individuals to work with vulner-
19 able adults and caregivers; and

20 “(iv) training for volunteers to serve
21 in rural communities.

22 “(B) MINORITY POPULATIONS.—Programs
23 designed to meet the needs of elders in minority
24 populations, including culturally and linguis-
25 tically appropriate programs.

1 “(C) INDIAN TRIBES.—Programs designed
 2 to provide necessary services to elders who are
 3 members of Indian tribes including successful
 4 programs in elder abuse, neglect, and exploi-
 5 tation prevention and treatment that target In-
 6 dian populations. The entities carrying out the
 7 programs shall deliver services and distribute
 8 educational information on elder abuse, neglect,
 9 and exploitation to Indian tribes and other pol-
 10 icymakers, health and social service providers,
 11 law enforcement, and researchers with a par-
 12 ticular interest in elders who are members of
 13 Indian tribes.

14 “(3) AUTHORIZATION OF APPROPRIATIONS.—
 15 There are authorized to be appropriated to carry out
 16 this subsection such sums as may be necessary for
 17 each of fiscal years 2003 through 2009.

18 “(i) PUBLIC AWARENESS GRANTS.—

19 “(1) GRANTS AUTHORIZED.—The Secretary,
 20 after consultation with the coordinating council es-
 21 tablished under section 2213, shall award grants to
 22 eligible entities to conduct a multimedia campaign
 23 designed to raise awareness about elder abuse, ne-
 24 glect, and exploitation.

1 “(2) AUTHORIZED ACTIVITIES.—Grant funds
2 awarded under paragraph (1) shall be used for ac-
3 tivities including the following:

4 “(A) Raising public awareness regarding
5 financial schemes that target elders.

6 “(B) Pilot testing of the effectiveness of
7 various types of multimedia campaigns in rais-
8 ing awareness about—

9 “(i) the types of elder abuse, neglect,
10 and exploitation;

11 “(ii) steps to take if an individual sus-
12 pects elder abuse, neglect, or exploitation
13 has occurred; and

14 “(iii) ways to prevent elder abuse, ne-
15 glect, or exploitation.

16 “(3) AUTHORIZATION OF APPROPRIATIONS.—
17 There are authorized to be appropriated to carry out
18 this subsection such sums as may be necessary for
19 each of fiscal years 2003 through 2009.

20 “(j) ELDER JUSTICE INNOVATION FUND.—

21 “(1) IN GENERAL.—The Secretary and the At-
22 torney General are authorized to jointly award
23 grants to researchers in the elder justice field or re-
24 lated fields in order to support research on innova-
25 tive approaches to issues in such fields that might

1 not be funded or pursued in the absence of a grant
 2 under this subsection.

3 “(2) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated to carry out
 5 this subsection such sums as may be necessary for
 6 each of fiscal years 2003 through 2009.

7 **“SEC. 2223. STUDIES.**

8 “(a) ROLES OF ENTITIES RESPONDING TO ELDER
 9 ABUSE, NEGLECT, AND EXPLOITATION.—

10 “(1) IN GENERAL.—The Secretary of Health
 11 and Human Services and the Attorney General shall
 12 jointly sponsor or conduct a study of the roles and
 13 responsibilities of government and government-fund-
 14 ed entities responsible for responding to, inves-
 15 tigating, and taking other actions in response to re-
 16 ports of elder abuse, neglect, and exploitation
 17 including—

18 “(A) State agencies with the responsibility
 19 for adult protective services;

20 “(B) the State Long-Term Care Ombuds-
 21 men;

22 “(C) law enforcement (including prosecu-
 23 tors); and

24 “(D) such other social service, advocacy,
 25 and protection organizations as the Secretary

1 and the Attorney General determine to be ap-
2 propriate.

3 “(2) GOALS.—The goals of the study author-
4 ized in paragraph (1) (which may be conducted in
5 distinct sections, if there is overall coordination) are
6 to identify gaps in detection of, investigation of, and
7 intervention in elder abuse, neglect, and exploitation,
8 and to improve the response to elder abuse, neglect,
9 and exploitation and reduce elder victimization and
10 its consequences by assessing and improving the sys-
11 tems created to address reports of the problems.

12 “(3) AUTHORIZED ACTIVITIES.—In conducting
13 the study authorized in paragraph (1), the Director
14 shall—

15 “(A) conduct an evaluation of how the so-
16 cial service, advocacy, protection, and law en-
17 forcement entities and systems are operating,
18 the interplay and allocation of responsibilities
19 among those entities, and how that allocation
20 differs from community to community and
21 State to State;

22 “(B) make recommendations on how to
23 clarify the roles (at the national level) of enti-
24 ties such as State agencies with responsibility
25 for adult protective services, the State Long-

1 Term Care Ombudsmen, and other protection
 2 and advocacy entities to enhance efficiency,
 3 eliminate gaps in service, and identify con-
 4 flicting mandates and duplication of efforts;
 5 and

6 “(C) evaluate how various communities de-
 7 lineate the roles and responsibilities of the types
 8 of entities described in subparagraph (A) in
 9 order to identify and recommend effective mod-
 10 els and methods to duplicate the delineation ef-
 11 forts (such as duplication through memoranda
 12 of understanding).

13 “(4) AUTHORIZATION OF APPROPRIATIONS.—
 14 There are authorized to be appropriated to carry out
 15 this subsection such sums as may be necessary for
 16 each of fiscal years 2003 through 2009.

17 “(b) FAMILY ELDER ABUSE, NEGLECT, AND EX-
 18 PLOITATION STUDY.—

19 “(1) IN GENERAL.—The Director of the Cen-
 20 ters for Disease Control and Prevention (in this sub-
 21 section referred to as the ‘Director’) shall conduct a
 22 study to determine the best method to address elder
 23 abuse, neglect, and exploitation from a public health
 24 perspective, including examining methods to reduce

1 elder abuse, neglect, and exploitation committed by
 2 family members.

3 “(2) COLLABORATION.—The Director, in car-
 4 rying out activities under this subsection, shall col-
 5 laborate with the Director of the National Institute
 6 on Aging, the Assistant Secretary for Aging, the
 7 heads of State agencies with responsibility for adult
 8 protective services, and the heads of such other enti-
 9 ties as the Director determines appropriate.

10 “(3) AUTHORIZATION OF APPROPRIATIONS.—
 11 There are authorized to be appropriated to carry out
 12 this subsection [____] for each of fiscal years 2003
 13 through 2009.

14 **“SEC. 2224. FORENSIC MARKERS, METHODOLOGIES, AND**
 15 **TRAINING.**

16 “(a) FORENSIC CENTERS.—

17 “(1) GRANTS.—The Secretary shall make
 18 grants to appropriate entities to establish and oper-
 19 ate stationary and mobile forensic centers, to de-
 20 velop forensic expertise regarding, and provide serv-
 21 ices relating to, elder abuse, neglect, and exploi-
 22 tation.

23 “(2) STATIONARY CENTERS.—The Secretary
 24 shall make 4 of the grants described in paragraph
 25 (1) to institutions of higher education with dem-

1 onstrated expertise in forensics, to establish and op-
2 erate stationary forensic centers. The Secretary shall
3 make at least 2 of the 4 grants to an entity oper-
4 ating a Center of Excellence described in section
5 2222(b) at an institution of higher education.

6 “(3) MOBILE CENTERS.—The Secretary shall
7 make 6 of the grants described in paragraph (1) to
8 appropriate entities to establish and operate mobile
9 forensic centers.

10 “(4) USE OF FUNDS.—

11 “(A) DEVELOPMENT OF FORENSIC MARK-
12 ERS AND METHODOLOGIES.—An entity that re-
13 ceives a grant under this subsection shall use
14 funds made available through the grant to con-
15 duct research to describe and disseminate infor-
16 mation on—

17 “(i) forensic markers that indicate a
18 case in which elder abuse, neglect, or ex-
19 ploitation may have occurred; and

20 “(ii) methodologies for determining, in
21 such a case, when and how health care,
22 emergency service, social service, and legal
23 service providers should intervene and
24 when the providers should report the case
25 to law enforcement authorities.

1 “(B) APPLICATIONS.—An entity that re-
 2 ceives a grant under this subsection shall use
 3 funds made available through the grant to de-
 4 velop forensic expertise regarding elder abuse,
 5 neglect, and exploitation, in order to provide
 6 medical and forensic evaluation, therapeutic
 7 intervention, victim support and advocacy, case
 8 review, and case tracking.

9 “(C) COLLECTION OF EVIDENCE.—An en-
 10 tity operating a Center of Excellence described
 11 in section 2222(b) that receives a grant under
 12 this subsection shall use funds made available
 13 through the grant to develop the capacity to
 14 collect forensic evidence, including collecting fo-
 15 rensic evidence relating to a potential deter-
 16 mination of elder abuse, neglect, or exploitation.

17 “(b) TRAINING TO DEVELOP EXPERTISE IN GERI-
 18 ATRIC FORENSICS.—

19 “(1) FELLOWSHIP PROGRAMS.—

20 “(A) IN GENERAL.—The Secretary shall
 21 provide fellowships to eligible individuals, to en-
 22 able the individuals to obtain training through
 23 a standard forensic science training program.

1 “(B) ELIGIBLE INDIVIDUALS.—To be eligi-
2 ble to receive a fellowship under this paragraph,
3 an individual shall be a physician who—

4 “(i) is board certified or board eligible
5 in internal medicine or family practice;

6 “(ii) has completed a program in geri-
7 atrics that meets such criteria as the Sec-
8 retary may prescribe; and

9 “(iii) has entered into an agreement
10 with the Secretary to provide the team
11 training described in subparagraph (C),
12 after receiving the training described in
13 subparagraph (A).

14 “(C) TEAM TRAINING.—An individual who
15 receives a fellowship under this paragraph shall
16 provide training in forensic geriatrics to inter-
17 disciplinary teams of health care professionals.

18 “(2) OTHER PROGRAMS.—The Secretary shall
19 establish programs, and make grants to carry out
20 the programs, to provide forensic training to experi-
21 enced geriatricians.

22 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to carry out this section
24 such sums as may be necessary for each of fiscal years
25 2003 through 2009.

1 **“Subtitle C—Increasing Security,**
 2 **Quality, and Consumer Informa-**
 3 **tion for Long-Term Care**

4 **“CHAPTER 1—INCREASING SECURITY FOR**
 5 **LONG-TERM CARE**

6 **“SEC. 2231. REPORTING TO LAW ENFORCEMENT OF CRIMES**
 7 **OCCURRING IN FEDERALLY FUNDED LONG-**
 8 **TERM CARE FACILITIES.**

9 “(a) DETERMINATION AND NOTIFICATION.—

10 “(1) DETERMINATION.—Except as provided in
 11 paragraph (2), the owner or operator of each long-
 12 term care facility that receives Federal funds shall
 13 annually determine if the facility received an amount
 14 of Federal funds that was not less than \$10,000
 15 during the past year.

16 “(2) SINGLE POSITIVE DETERMINATION.—The
 17 owner or operator shall make the determination for
 18 a year unless the owner or operator determined that
 19 the facility received that amount during any previous
 20 year.

21 “(3) NOTIFICATION.—If the owner or operator
 22 determines that the facility received that amount
 23 during any year, the owner or operator shall annu-
 24 ally notify each individual described in subsection (b)
 25 of the obligation to comply with subsection (b).

1 “(b) REPORTING REQUIREMENT.—

2 “(1) IN GENERAL.—Each individual who is an
3 owner, operator, employee, agent, or contractor of a
4 long-term care facility that is the subject of a deter-
5 mination described in subsection (a)(3) shall report
6 to 1 or more law enforcement entities for the juris-
7 diction in which the facility is located, any reason-
8 able suspicion of a crime (as defined by the law of
9 the applicable political subdivision) against any per-
10 son who is a resident of or receiving care from the
11 facility.

12 “(2) TIMING.—If the events that cause the
13 suspicion—

14 “(A) result in serious bodily injury, the in-
15 dividual shall report the suspicion immediately,
16 but not later than 2 hours after forming the
17 suspicion; and

18 “(B) do not result in serious bodily injury,
19 the individual shall report the suspicion not
20 later than 24 hours after forming the suspicion.

21 “(c) PENALTY.—

22 “(1) IN GENERAL.—If an individual described
23 in subsection (b) violates subsection (b)—

1 “(A) the individual shall be fined not more
2 than \$200,000 or subject to a civil money pen-
3 alty of not more than \$200,000; or

4 “(B) the Secretary shall classify the indi-
5 vidual as an excluded individual, for a period of
6 not more than 3 years.

7 “(2) INCREASED HARM.—If an individual de-
8 scribed in subsection (b) violates subsection (b), and
9 the violation exacerbates the harm to the victim of
10 the crime or results in harm to another person—

11 “(A) the individual shall be fined not more
12 than \$200,000 or subject to a civil money pen-
13 alty of not more than \$200,000; and

14 “(B) the Secretary shall classify the indi-
15 vidual as an excluded individual, for a period of
16 not more than 3 years.

17 “(3) EXCLUDED INDIVIDUAL.—During any pe-
18 riod for which an individual is classified as an ex-
19 cluded individual under this paragraph, an entity
20 that employs the individual shall be ineligible to re-
21 ceives funds under the medicare program under title
22 XVIII or the medicaid program under title XIX.

23 “(4) EXTENUATING CIRCUMSTANCES.—The Sec-
24 retary may take into account the financial burden on

1 providers with underserved populations in deter-
 2 mining the penalty.

3 “(d) REGULATIONS.—The Secretary, after consulting
 4 with the Attorney General, shall issue regulations to carry
 5 out this section.

6 **“CHAPTER 2—IMPROVING THE QUALITY**
 7 **OF LONG-TERM CARE**

8 **“SEC. 2241. GRANTS AND INCENTIVES TO ENHANCE LONG-**
 9 **TERM CARE STAFFING.**

10 “(a) GENERAL AUTHORITY.—The Administrator of
 11 the Centers for Medicare & Medicaid Services (in this sec-
 12 tion referred to as the ‘Administrator’) shall carry out ac-
 13 tivities, including activities described in subsection (b) and
 14 (c), to provide incentives for individuals to train for, seek,
 15 and maintain employment providing direct care in a long-
 16 term care facility.

17 “(b) SPECIFIC PROGRAMS TO ENHANCE TRAINING,
 18 RECRUITMENT, AND RETENTION.—

19 “(1) COORDINATION TO TRAIN AND RECRUIT
 20 PARTICIPANTS IN OTHER PROGRAMS.—The Adminis-
 21 trator shall coordinate activities with the Secretary
 22 of Labor and the Assistant Secretary for the Admin-
 23 istration for Children and Families, in order to pro-
 24 vide incentives to participants in programs carried
 25 out under section 403(a)(5) and part A of title IV

1 to train for and seek employment providing direct
2 care in a long-term care facility.

3 “(2) CAREER LADDERS AND WAGE OR BENEFIT
4 INCREASES.—

5 “(A) IN GENERAL.—The Administrator
6 shall make grants to eligible entities to carry
7 out programs through which the entities—

8 “(i) offer, to employees who provide
9 direct care in a long-term care facility,
10 continuing training and varying levels of
11 certification, based on observed clinical
12 care practices and the amount of time the
13 employees spend providing direct care; and

14 “(ii) provide, or make arrangements
15 with employers to provide, bonuses or
16 other increased compensation or benefits to
17 employees who achieve certification under
18 such a program.

19 “(B) APPLICATION.—To be eligible to re-
20 ceive a grant under this paragraph, an entity
21 shall submit an application to the Adminis-
22 trator at such time, in such manner, and con-
23 taining such information as the Administrator
24 may require.

1 “(c) SPECIFIC PROGRAMS TO IMPROVE MANAGE-
2 MENT PRACTICES.—

3 “(1) IN GENERAL.—The Administrator shall
4 make grants to eligible organizations to enable the
5 organizations to provide training and technical as-
6 sistance to eligible persons (including administra-
7 tors, directors of nursing, staff developers, and
8 charge nurses) who establish or implement manage-
9 ment practices for long-term care facilities.

10 “(2) USE OF FUNDS.—An organization that re-
11 ceives a grant under paragraph (1) shall use funds
12 made available through the grant—

13 “(A) to provide training and technical as-
14 sistance regarding management practices, that
15 are for employees that provide direct care in a
16 long-term care facility, and that are dem-
17 onstrated to promote retention of those employ-
18 ees, such as—

19 “(i) the establishment of basic human
20 resource policies that reward high perform-
21 ance, including policies that provide for im-
22 proved wages and benefits on the basis of
23 job reviews;

1 “(ii) the establishment of motivational
2 and thoughtful work organization prac-
3 tices;

4 “(iii) the creation of a workplace cul-
5 ture that respects and values caregivers
6 and their needs;

7 “(iv) the promotion of a workplace
8 culture that respects residents of a long-
9 term care facility and results in improved
10 care for the residents; and

11 “(v) the establishment of other pro-
12 grams that promote the provision of high
13 quality care, such as a continuing edu-
14 cation program that provides additional
15 hours of training, including on-the-job
16 training, for employees who are certified
17 nurse aides; or

18 “(B) to disseminate training materials for
19 the training described in subparagraph (A), and
20 to provide the materials to the National Elder
21 Justice Library established in section
22 2221(a)(4), so that the materials are available
23 to other providers of such training.

24 “(3) APPLICATION.—To be eligible to receive a
25 grant under this subsection, an organization shall

1 submit an application to the Administrator at such
 2 time, in such manner, and containing such informa-
 3 tion as the Administrator may require.

4 **“SEC. 2242. COLLABORATIVE EFFORTS TO ENHANCE COM-**
 5 **MUNICATION ON PROMOTING QUALITY OF**
 6 **AND PREVENTING ABUSE AND NEGLECT IN**
 7 **LONG-TERM CARE.**

8 “(a) IN GENERAL.—The Director of the Agency for
 9 Healthcare Research and Quality (in this section referred
 10 to as the ‘Director’), in consultation with the Attorney
 11 General, may establish pilot projects to improve long-term
 12 care. In carrying out the projects, the Director shall make
 13 grants to eligible partnerships to develop collaborative and
 14 innovative approaches to improve the quality of, including
 15 preventing abuse and neglect in, long-term care.

16 “(b) ELIGIBLE PARTNERSHIPS.—To be eligible to re-
 17 ceive a grant under this section, a partnership shall be
 18 a multidisciplinary community partnership, such as a
 19 partnership consisting of representatives in a community
 20 of nursing facility providers, advocates for residents of
 21 long-term care facilities, State Long-Term Care Ombuds-
 22 men, surveyors, the State agency with responsibility for
 23 adult protective services, the State agency with responsi-
 24 bility for licensing long-term care facilities, law enforce-
 25 ment agencies, family councils, residents, certified nurse

1 aides, registered nurses, and other appropriate entities
 2 and individuals.

3 “(c) APPLICATION.—To be eligible to receive a grant
 4 under this section, a partnership shall submit an applica-
 5 tion to the Director at such time, in such manner, and
 6 containing such information as the Director may require.

7 **“SEC. 2243. COLLABORATIVE EFFORTS TO DEVELOP CON-**
 8 **SENSUS AROUND THE MANAGEMENT OF CER-**
 9 **TAIN QUALITY-RELATED FACTORS.**

10 “(a) IN GENERAL.—The Director of the Agency for
 11 Healthcare Research and Quality (in this section referred
 12 to as the ‘Director’), after consultation with the Elder
 13 Justice Coordinating Council established under section
 14 2213, may make grants to eligible entities to establish
 15 multidisciplinary panels to address, and develop consensus
 16 on, subjects relating to improving the quality of long-term
 17 care. The Director shall make a limited number of such
 18 grants, including at least 1 grant for the establishment
 19 of such a panel to address, and develop consensus on,
 20 methods of managing resident-to-resident abuse in long-
 21 term care.

22 “(b) USE OF FUNDS.—An entity that receives a
 23 grant under this section shall—

24 “(1) establish a multidisciplinary panel to ad-
 25 dress a specific subject; and

1 “(2) ensure that the panel uses the funds made
 2 available through the grant to establish a goal with
 3 respect to the subject, examine relevant research and
 4 data, identify best practices with respect to the sub-
 5 ject, determine the best way to carry out those best
 6 practices in a practical and feasible manner, and de-
 7 termine an effective manner of distributing informa-
 8 tion on the subject.

9 “(c) APPLICATION.—To be eligible to receive a grant
 10 under this section, an entity shall submit an application
 11 to the Director at such time, in such manner, and con-
 12 taining such information as the Director may require.

13 **“CHAPTER 3—INCREASING CONSUMER**
 14 **INFORMATION ABOUT LONG-TERM CARE**
 15 **“SEC. 2251. LONG-TERM CARE CONSUMER CLEARING-**
 16 **HOUSE.**

17 “(a) IN GENERAL.—The Assistant Secretary for
 18 Aging, in coordination with the Director of the Agency for
 19 Healthcare Research and Quality and the Administrator
 20 of the Centers for Medicare & Medicaid Services, shall es-
 21 tablish a long-term care consumer clearinghouse in the
 22 Department of Health and Human Services.

23 “(b) INFORMATION.—The clearinghouse shall provide
 24 comprehensive detailed information, in a consumer-friend-
 25 ly form, to consumers about choices relating to long-term

1 care providers, such as information (including links to
 2 websites and other resources that provide information)
 3 about—

4 “(1) obtaining the services of, and employing,
 5 caregivers who provide long-term care at an individ-
 6 ual’s home; and

7 “(2) options for residential long-term care, such
 8 as—

9 “(A)(i) the type of care provided by nurs-
 10 ing facilities; and

11 “(ii) the type of care provided by group
 12 homes and other residential long-term care fa-
 13 cilities that are not nursing facilities;

14 “(B) the benefits available through the
 15 programs carried out under titles XVIII and
 16 XIX of the Social Security Act (42 U.S.C. 1395
 17 et seq. and 1396 et seq.); and

18 “(C) the care available through specific
 19 long-term care facilities, including data on the
 20 satisfaction level of residents of, and families of
 21 residents of, the facilities.

22 “(c) PROVIDERS.—In providing information on long-
 23 term care providers under this section, the clearinghouse
 24 shall provide information (from States and other sources)
 25 on assisted living facilities, board and care facilities, con-

1 gregate care facilities, home health care providers, and
 2 other long-term care providers.

3 **“SEC. 2252. CONSUMER INFORMATION ABOUT THE CON-**
 4 **TINUUM OF RESIDENTIAL LONG-TERM CARE**
 5 **FACILITIES.**

6 “(a) STUDY.—

7 “(1) IN GENERAL.—The Director of the Agency
 8 for Healthcare Research and Quality shall, directly
 9 or through a grant or contract, conduct a study on
 10 consumer concerns relating to residential long-term
 11 care facilities, other than nursing facilities.

12 “(2) SPECIFIC TOPICS.—The entity conducting
 13 the study shall—

14 “(A) develop definitions for classes of the
 15 residential long-term care facilities described in
 16 paragraph (1); and

17 “(B) collect information on the prices of,
 18 level of services provided by, oversight and en-
 19 forcement provisions of, and admission and dis-
 20 charge criteria of, the facilities.

21 “(b) REPORT.—The Director of the Agency for
 22 Healthcare Research and Quality shall prepare a report
 23 containing the results of the study, and submit the report
 24 to the Elder Justice Coordinating Council established
 25 under section 2213, the Committee on Ways and Means

1 of the House of Representatives, and the Special Com-
 2 mittee on Aging of the Senate.

3 **“Subtitle D—Administration**

4 **“SEC. 2261. EVALUATIONS.**

5 “(a) GRANTS, COOPERATIVE AGREEMENTS, AND
 6 CONTRACTS.—

7 “(1) IN GENERAL.—In making a grant under a
 8 provision of this title (other than this section), the
 9 Secretary and the Attorney General shall—

10 “(A) require the recipient of the grant
 11 to—

12 “(i) reserve a portion of the funds
 13 made available through the grant; and

14 “(ii) use the reserved funds to conduct
 15 an evaluation of the other activities carried
 16 out through the grant; or

17 “(B)(i) reserve a portion of the funds
 18 available for the grant; and

19 “(ii) use the reserved funds to provide as-
 20 sistance to an eligible entity to conduct an eval-
 21 uation of the activities carried out through the
 22 grant.

23 “(2) USE OF FUNDS.—A recipient of a grant
 24 described in paragraph (1)(A), or assistance de-
 25 scribed in paragraph (1)(B)(ii), shall use the funds

made available through the grant, or the assistance, respectively, to conduct a validated evaluation of the effectiveness of the activities described in subparagraph (A) or (B), respectively, of paragraph (1).

“(3) APPLICATIONS.—

“(A) SUBMISSION.—

“(i) GRANTS FOR PROJECTS CONTAINING EVALUATIONS.—To be eligible to receive a grant for which the Secretary requires the reservation described in paragraph (1)(A)(i), an entity shall include a proposal for the evaluation in the application submitted for the grant.

“(ii) ASSISTANCE FOR EVALUATIONS.—To be eligible to receive assistance under paragraph (1)(B)(ii), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a proposal for the evaluation.

“(B) REVIEW AND ASSISTANCE.—An employee of the National Institute on Aging, and a private expert, with expertise in evaluation methodology shall review each proposal de-

1 scribed in clause (i) or (ii) of subparagraph (A),
2 and determine whether the methodology de-
3 scribed in the proposal is adequate to gather
4 meaningful information. If the employee and
5 expert determine that the methodology is inad-
6 equate, the employee and expert shall rec-
7 ommend that the Secretary deny the application
8 for the grant described in subparagraph (A)(i),
9 or the assistance described in subparagraph
10 (B)(ii), as appropriate. If the Secretary denies
11 the application on the basis of the proposal, the
12 Secretary shall inform the applicant why the
13 application was denied, and offer assistance to
14 the applicant in modifying the proposal.

15 “(b) OTHER GRANTS.—The Secretary shall make
16 grants to appropriate entities to conduct validated evalua-
17 tions of activities, to reduce elder abuse, neglect, and ex-
18 ploitation, that are not funded under this title.

19 “(c) CONDITION OF PARTICIPATION.—As a condition
20 of participation in any grant under this title, individuals,
21 facilities, and other entities shall agree to be subject to
22 the provisions of section 571 of title 18, United States
23 Code.

1 “(d) DEFINITION.—In this section, the term ‘grant’
 2 includes a contract, cooperative agreement, or other mech-
 3 anism for providing financial assistance.

4 **“SEC. 2262. HUMAN SUBJECT RESEARCH.**

5 “For purposes of the application of subpart A of part
 6 46 of title 45, Code of Federal Regulations to research
 7 conducted under this title, the term ‘legally authorized
 8 representative’ means, unless otherwise provided by law,
 9 the individual, or judicial or other body authorized under
 10 the applicable law to consent to medical treatment on be-
 11 half of another person.

12 **“SEC. 2263. REGULATIONS.**

13 “‘The Secretary may issue such regulations as may
 14 be necessary to carry out this title.

15 **“SEC. 2264. AUTHORIZATION OF APPROPRIATIONS.**

16 “‘There are authorized to be appropriated to carry out
 17 this subtitle, such sums as may be necessary for each of
 18 fiscal years 2003 through 2009.’”.

19 **SEC. 102. PATIENT ABUSE PREVENTION.**

20 (a) ESTABLISHMENT OF PROGRAM TO PREVENT
 21 ABUSE OF NURSING FACILITY RESIDENTS.—

22 (1) SCREENING OF SKILLED NURSING FACILITY
 23 AND NURSING FACILITY EMPLOYEE APPLICANTS.—

24 (A) MEDICARE PROGRAM.—Section
 25 1819(b) of the Social Security Act (42 U.S.C.

1 1395i-3(b)) is amended by adding at the end
2 the following:

3 “(8) SCREENING OF SKILLED NURSING FACIL-
4 ITY WORKERS.—

5 “(A) BACKGROUND CHECKS ON APPLI-
6 CANTS.—Subject to subparagraph (B)(ii), be-
7 fore hiring a skilled nursing facility worker, a
8 skilled nursing facility shall—

9 “(i) give the worker written notice
10 that the facility is required to perform
11 background checks with respect to appli-
12 cants;

13 “(ii) require, as a condition of employ-
14 ment, that such worker—

15 “(I) provide a written statement
16 disclosing any conviction for a rel-
17 evant crime;

18 “(II) provide a statement signed
19 by the worker authorizing the facility
20 to request the search and exchange of
21 criminal records;

22 “(III) provide in person to the
23 facility a copy of the worker’s finger-
24 prints or thumb print, depending
25 upon available technology; and

1 “(IV) provide any other identi-
 2 fication information the Secretary
 3 may specify in regulation; and

4 “(iii) request through the appropriate
 5 State agency that the State initiate a State
 6 and national criminal background check on
 7 such worker in accordance with the provi-
 8 sions of subsection (e)(6) and submit to
 9 such State agency the information de-
 10 scribed in subclauses (II) through (IV) of
 11 clause (ii).

12 “(B) PROHIBITION ON HIRING OF ABUSIVE
 13 WORKERS.—

14 “(i) IN GENERAL.—A skilled nursing
 15 facility may not knowingly employ any
 16 skilled nursing facility worker who has any
 17 conviction for a relevant crime.

18 “(ii) PROVISIONAL EMPLOYMENT.—
 19 After complying with the requirements of
 20 clauses (i) and (ii) of subparagraph (A), a
 21 skilled nursing facility may provide for a
 22 provisional period of employment for a
 23 skilled nursing facility worker pending
 24 completion of the check against the back-
 25 ground check described under subpara-

graph (A)(iii). Such facility shall maintain direct supervision of the covered individual during the worker's provisional period of employment.

“(C) REPORTING REQUIREMENTS.—A skilled nursing facility shall report to the State any instance in which the facility determines that a skilled nursing facility worker has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

“(D) USE OF INFORMATION.—

“(i) IN GENERAL.—A skilled nursing facility that obtains information about a skilled nursing facility worker pursuant to subparagraph (A)(iii) may use such information only for the purpose of determining the suitability of the worker for employment.

“(ii) IMMUNITY FROM LIABILITY.—A skilled nursing facility that, in denying employment for an applicant (including during the period described in subparagraph (B)(ii)), reasonably relies upon information about such applicant provided by the State

1 pursuant to subsection (e)(6) shall not be
 2 liable in any action brought by such appli-
 3 cant based on the employment determina-
 4 tion resulting from the information.

5 “(iii) CRIMINAL PENALTY.—Whoever
 6 knowingly violates the provisions of clause
 7 (i) shall be fined in accordance with title
 8 18, United States Code, imprisoned for not
 9 more than 2 years, or both.

10 “(E) CIVIL PENALTY.—

11 “(i) IN GENERAL.—A skilled nursing
 12 facility that violates the provisions of this
 13 paragraph shall be subject to a civil pen-
 14 alty in an amount not to exceed—

15 “(I) for the first such violation,
 16 \$2,000; and

17 “(II) for the second and each
 18 subsequent violation within any 5-year
 19 period, \$5,000.

20 “(ii) KNOWING RETENTION OF WORK-
 21 ER.—In addition to any civil penalty under
 22 clause (i), a skilled nursing facility that—

23 “(I) knowingly continues to em-
 24 ploy a skilled nursing facility worker

1 in violation of subparagraph (A) or
 2 (B); or

3 “(II) knowingly fails to report a
 4 skilled nursing facility worker under
 5 subparagraph (C),

6 shall be subject to a civil penalty in an
 7 amount not to exceed \$5,000 for the first
 8 such violation, and \$10,000 for the second
 9 and each subsequent violation within any
 10 5-year period.

11 “(F) DEFINITIONS.—In this paragraph:

12 “(i) CONVICTION FOR A RELEVANT
 13 CRIME.—The term ‘conviction for a rel-
 14 evant crime’ means any Federal or State
 15 criminal conviction for—

16 “(I) any offense described in
 17 paragraphs (1) through (4) of section
 18 1128(a); and

19 “(II) such other types of offenses
 20 as the Secretary may specify in regu-
 21 lations, taking into account the sever-
 22 ity and relevance of such offenses, and
 23 after consultation with representatives
 24 of long-term care providers, represent-
 25 atives of long-term care employees,

1 consumer advocates, and appropriate
2 Federal and State officials.

3 “(ii) DISQUALIFYING INFORMATION.—

4 The term ‘disqualifying information’ means
5 information about a conviction for a rel-
6 evant crime.

7 “(iii) SKILLED NURSING FACILITY
8 WORKER.—The term ‘skilled nursing facil-
9 ity worker’ means any individual (other
10 than a volunteer) that has access to a pa-
11 tient of a skilled nursing facility under an
12 employment or other contract, or both,
13 with such facility. Such term includes indi-
14 viduals who are licensed or certified by the
15 State to provide such services, and non-
16 licensed individuals providing such services,
17 as defined by the Secretary, including
18 nurse assistants, nurse aides, home health
19 aides, and personal care workers and at-
20 tendants.”.

21 (B) MEDICAID PROGRAM.—Section
22 1919(b) of the Social Security Act (42 U.S.C.
23 1396r(b)) is amended by adding at the end the
24 following new paragraph:

1 “(8) SCREENING OF NURSING FACILITY WORK-
2 ERS.—

3 “(A) BACKGROUND CHECKS ON APPLI-
4 CANTS.—Subject to subparagraph (B)(ii), be-
5 fore hiring a nursing facility worker, a nursing
6 facility shall—

7 “(i) give the worker written notice
8 that the facility is required to perform
9 background checks with respect to appli-
10 cants;

11 “(ii) require, as a condition of employ-
12 ment, that such worker—

13 “(I) provide a written statement
14 disclosing any conviction for a rel-
15 evant crime;

16 “(II) provide a statement signed
17 by the worker authorizing the facility
18 to request the search and exchange of
19 criminal records;

20 “(III) provide in person to the
21 facility a copy of the worker’s finger-
22 prints or thumb print, depending
23 upon available technology; and

1 “(IV) provide any other identi-
2 fication information the Secretary
3 may specify in regulation; and

4 “(iii) request through the appropriate
5 State agency that the State initiate a State
6 and national criminal background check on
7 such worker in accordance with the provi-
8 sions of subsection (e)(8) and submit to
9 such State agency the information de-
10 scribed in subclauses (II) through (IV) of
11 clause (ii).

12 “(B) PROHIBITION ON HIRING.—

13 “(i) IN GENERAL.—A nursing facility
14 may not knowingly employ any nursing fa-
15 cility worker who has any conviction for a
16 relevant crime.

17 “(ii) PROVISIONAL EMPLOYMENT.—
18 After complying with the requirements of
19 clauses (i) and (ii) of subparagraph (A), a
20 nursing facility may provide for a provi-
21 sional period of employment for a nursing
22 facility worker pending completion of the
23 check against the background check de-
24 scribed under subparagraph (A)(iii). Such
25 facility shall maintain direct supervision of

1 the worker during the worker’s provisional
2 period of employment.

3 “(C) REPORTING REQUIREMENTS.—A
4 nursing facility shall report to the State any in-
5 stance in which the facility determines that a
6 nursing facility worker has committed an act of
7 resident neglect or abuse or misappropriation of
8 resident property in the course of employment
9 by the facility.

10 “(D) USE OF INFORMATION.—

11 “(i) IN GENERAL.—A nursing facility
12 that obtains information about a nursing
13 facility worker pursuant to subparagraph
14 (A)(iii) may use such information only for
15 the purpose of determining the suitability
16 of the worker for employment.

17 “(ii) IMMUNITY FROM LIABILITY.—A
18 nursing facility that, in denying employ-
19 ment for an applicant (including during
20 the period described in subparagraph
21 (B)(ii)), reasonably relies upon information
22 about such applicant provided by the State
23 pursuant to subsection (e)(8) shall not be
24 liable in any action brought by such appli-

1 cant based on the employment determina-
 2 tion resulting from the information.

3 “(iii) CRIMINAL PENALTY.—Whoever
 4 knowingly violates the provisions of clause
 5 (i) shall be fined in accordance with title
 6 18, United States Code, imprisoned for not
 7 more than 2 years, or both.

8 “(E) CIVIL PENALTY.—

9 “(i) IN GENERAL.—A nursing facility
 10 that violates the provisions of this para-
 11 graph shall be subject to a civil penalty in
 12 an amount not to exceed—

13 “(I) for the first such violation,
 14 \$2,000; and

15 “(II) for the second and each
 16 subsequent violation within any 5-year
 17 period, \$5,000.

18 “(ii) KNOWING RETENTION OF WORK-
 19 ER.—In addition to any civil penalty under
 20 clause (i), a nursing facility that—

21 “(I) knowingly continues to em-
 22 ploy a nursing facility worker in viola-
 23 tion of subparagraph (A) or (B); or

1 “(II) knowingly fails to report a
2 nursing facility worker under subpara-
3 graph (C),

4 shall be subject to a civil penalty in an
5 amount not to exceed \$5,000 for the first
6 such violation, and \$10,000 for the second
7 and each subsequent violation within any
8 5-year period.

9 “(F) DEFINITIONS.—In this paragraph:

10 “(i) CONVICTION FOR A RELEVANT
11 CRIME.—The term ‘conviction for a rel-
12 evant crime’ means any Federal or State
13 criminal conviction for—

14 “(I) any offense described in
15 paragraphs (1) through (4) of section
16 1128(a); and

17 “(II) such other types of offenses
18 as the Secretary may specify in regu-
19 lations, taking into account the sever-
20 ity and relevance of such offenses, and
21 after consultation with representatives
22 of long-term care providers, represent-
23 atives of long-term care employees,
24 consumer advocates, and appropriate
25 Federal and State officials.

1 “(ii) DISQUALIFYING INFORMATION.—

2 The term ‘disqualifying information’ means
3 information about a conviction for a rel-
4 evant crime.

5 “(iii) NURSING FACILITY WORKER.—

6 The term ‘nursing facility worker’ means
7 any individual (other than a volunteer)
8 that has access to a patient of a nursing
9 facility under an employment or other con-
10 tract, or both, with such facility. Such
11 term includes individuals who are licensed
12 or certified by the State to provide such
13 services, and nonlicensed individuals pro-
14 viding such services, as defined by the Sec-
15 retary, including nurse assistants, nurse
16 aides, home health aides, and personal care
17 workers and attendants.”.

18 (C) FEDERAL RESPONSIBILITIES.—

19 (i) DEVELOPMENT OF STANDARD
20 FEDERAL AND STATE BACKGROUND CHECK
21 FORM.—The Secretary of Health and
22 Human Services, in consultation with the
23 Attorney General and representatives of
24 appropriate State agencies, shall develop a
25 model form that an applicant for employ-

1 ment at a nursing facility may complete
 2 and Federal and State agencies may use to
 3 conduct the criminal background checks
 4 required under sections 1819(b)(8) and
 5 1919(b)(8) of the Social Security Act (42
 6 U.S.C. 1395i-3(b), 1396r(b)) (as added by
 7 this section).

8 (ii) PERIODIC EVALUATION.—The
 9 Secretary of Health and Human Services,
 10 in consultation with the Attorney General,
 11 periodically shall evaluate the background
 12 check system imposed under sections
 13 1819(b)(8) and 1919(b)(8) of the Social
 14 Security Act (42 U.S.C. 1395i-3(b),
 15 1396r(b)) (as added by this section) and
 16 shall implement changes, as necessary,
 17 based on available technology, to make the
 18 background check system more efficient
 19 and able to provide a more immediate re-
 20 sponse to long-term care providers using
 21 the system.

22 (D) NO PREEMPTION OF STRICTER STATE
 23 LAWS.—Nothing in section 1819(b)(8) or
 24 1919(b)(8) of the Social Security Act (42
 25 U.S.C. 1395i-3(b)(8), 1396r(b)(8)) (as so

1 added) shall be construed to supersede any pro-
 2 vision of State law that—

3 (i) specifies a relevant crime for pur-
 4 poses of prohibiting the employment of an
 5 individual at a long-term care facility that
 6 is not included in the list of such crimes
 7 specified in such sections or in regulations
 8 promulgated by the Secretary of Health
 9 and Human Services to carry out such sec-
 10 tions; or

11 (ii) requires a long-term care facility
 12 (as so defined) to conduct a background
 13 check prior to employing an individual in
 14 an employment position that is not in-
 15 cluded in the positions for which a back-
 16 ground check is required under such sec-
 17 tions.

18 (E) TECHNICAL AMENDMENTS.—Effective
 19 as if included in the enactment of section 941
 20 of the Medicare, Medicaid, and SCHIP Benefits
 21 Improvement and Protection Act of 2000 (114
 22 Stat. 2763A–585), as enacted into law by sec-
 23 tion 1(a)(6) of Public Law 106–554, sections
 24 1819(b) and 1919(b) of the Social Security Act
 25 (42 U.S.C. 1395i–3(b), 1396r(b)), as amended

1 by such section 941 (as so enacted into law)
 2 are each amended by redesignating the para-
 3 graph (8) added by such section as paragraph
 4 (9).

5 (2) FEDERAL AND STATE REQUIREMENTS CON-
 6 CERNING BACKGROUND CHECKS.—

7 (A) MEDICARE.—Section 1819(e) of the
 8 Social Security Act (42 U.S.C. 1395i–3(e)) is
 9 amended by adding at the end the following:

10 “(6) FEDERAL AND STATE REQUIREMENTS
 11 CONCERNING CRIMINAL BACKGROUND CHECKS ON
 12 SKILLED NURSING FACILITY EMPLOYEES.—

13 “(A) IN GENERAL.—Upon receipt of a re-
 14 quest by a skilled nursing facility pursuant to
 15 subsection (b)(8) that is accompanied by the in-
 16 formation described in subclauses (II) through
 17 (IV) of subsection (b)(8)(A)(ii), a State, after
 18 checking appropriate State records and finding
 19 no disqualifying information (as defined in sub-
 20 section (b)(8)(F)(ii)), shall immediately submit
 21 such request and information to the Attorney
 22 General and shall request the Attorney General
 23 to conduct a search and exchange of records
 24 with respect to the individual as described in
 25 subparagraph (B).

1 “(B) SEARCH AND EXCHANGE OF
2 RECORDS BY ATTORNEY GENERAL.—Upon re-
3 ceipt of a submission pursuant to subparagraph
4 (A), the Attorney General shall direct a search
5 of the records of the Federal Bureau of Inves-
6 tigation for any criminal history records cor-
7 responding to the fingerprints and other posi-
8 tive identification information submitted. The
9 Attorney General shall provide any cor-
10 responding information resulting from the
11 search to the State.

12 “(C) STATE REPORTING OF INFORMATION
13 TO SKILLED NURSING FACILITY.—Upon receipt
14 of the information provided by the Attorney
15 General pursuant to subparagraph (B), the
16 State shall—

17 “(i) review the information to deter-
18 mine whether the individual has any con-
19 viction for a relevant crime (as defined in
20 subsection (b)(8)(F)(i)); and

21 “(ii) immediately report to the skilled
22 nursing facility in writing the results of
23 such review.

24 “(D) FEES FOR PERFORMANCE OF CRIMI-
25 NAL BACKGROUND CHECKS.—

1 “(i) AUTHORITY TO CHARGE FEES.—

2 “(I) ATTORNEY GENERAL.—The
3 Attorney General may charge a fee to
4 any State requesting a search and ex-
5 change of records pursuant to this
6 paragraph and subsection (b)(8) for
7 conducting the search and providing
8 the records. The amount of such fee
9 shall not exceed the lesser of the ac-
10 tual cost of such activities or \$50.
11 Such fees shall be available to the At-
12 torney General, or, in the Attorney
13 General’s discretion, to the Federal
14 Bureau of Investigation until ex-
15 pended.

16 “(II) STATE.—A State may
17 charge a skilled nursing facility a fee
18 for initiating the criminal background
19 check under this paragraph and sub-
20 section (b)(8), including fees charged
21 by the Attorney General, and for per-
22 forming the review and report re-
23 quired by subparagraph (C). The
24 amount of such fee shall not exceed
25 the actual cost of such activities.

1 “(ii) PROHIBITION ON CHARGING AP-
2 PLICANTS OR EMPLOYEES.—An entity may
3 not impose on an applicant for employment
4 or an employee any charges relating to the
5 performance of a background check under
6 this paragraph.

7 “(E) REGULATIONS.—

8 “(i) IN GENERAL.—In addition to the
9 Secretary’s authority to promulgate regula-
10 tions under this title, the Attorney Gen-
11 eral, in consultation with the Secretary,
12 may promulgate such regulations as are
13 necessary to carry out the Attorney Gen-
14 eral’s responsibilities under this paragraph
15 and subsection (b)(9), including regula-
16 tions regarding the security confidentiality,
17 accuracy, use, destruction, and dissemina-
18 tion of information, audits and record-
19 keeping, and the imposition of fees.

20 “(ii) APPEAL PROCEDURES.—The At-
21 torney General, in consultation with the
22 Secretary, shall promulgate such regula-
23 tions as are necessary to establish proce-
24 dures by which an applicant or employee
25 may appeal or dispute the accuracy of the

1 information obtained in a background
2 check conducted under this paragraph. Ap-
3 peals shall be limited to instances in which
4 an applicant or employee is incorrectly
5 identified as the subject of the background
6 check, or when information about the ap-
7 plicant or employee has not been updated
8 to reflect changes in the applicant's or em-
9 ployee's criminal record.

10 “(F) REPORT.—Not later than 2 years
11 after the date of enactment of this paragraph,
12 the Attorney General shall submit a report to
13 Congress on—

14 “(i) the number of requests for
15 searches and exchanges of records made
16 under this section;

17 “(ii) the disposition of such requests;
18 and

19 “(iii) the cost of responding to such
20 requests.”.

21 (B) MEDICAID.—Section 1919(e) of the
22 Social Security Act (42 U.S.C. 1396r(e)) is
23 amended by adding at the end the following:

1 “(8) FEDERAL AND STATE REQUIREMENTS
2 CONCERNING CRIMINAL BACKGROUND CHECKS ON
3 NURSING FACILITY EMPLOYEES.—

4 “(A) IN GENERAL.—Upon receipt of a re-
5 quest by a nursing facility pursuant to sub-
6 section (b)(8) that is accompanied by the infor-
7 mation described in subclauses (II) through
8 (IV) of subsection (b)(8)(A)(ii), a State, after
9 checking appropriate State records and finding
10 no disqualifying information (as defined in sub-
11 section (b)(8)(F)(ii)), shall immediately submit
12 such request and information to the Attorney
13 General and shall request the Attorney General
14 to conduct a search and exchange of records
15 with respect to the individual as described in
16 subparagraph (B).

17 “(B) SEARCH AND EXCHANGE OF
18 RECORDS BY ATTORNEY GENERAL.—Upon re-
19 ceipt of a submission pursuant to subparagraph
20 (A), the Attorney General shall direct a search
21 of the records of the Federal Bureau of Inves-
22 tigation for any criminal history records cor-
23 responding to the fingerprints and other posi-
24 tive identification information submitted. The
25 Attorney General shall provide any cor-

1 responding information resulting from the
2 search to the State.

3 “(C) STATE REPORTING OF INFORMATION
4 TO NURSING FACILITY.—Upon receipt of the in-
5 formation provided by the Attorney General
6 pursuant to subparagraph (B), the State
7 shall—

8 “(i) review the information to deter-
9 mine whether the individual has any con-
10 viction for a relevant crime (as defined in
11 subsection (b)(8)(F)(i)); and

12 “(ii) immediately report to the nurs-
13 ing facility in writing the results of such
14 review.

15 “(D) FEES FOR PERFORMANCE OF CRIMI-
16 NAL BACKGROUND CHECKS.—

17 “(i) AUTHORITY TO CHARGE FEES.—

18 “(I) ATTORNEY GENERAL.—The
19 Attorney General may charge a fee to
20 any State requesting a search and ex-
21 change of records pursuant to this
22 paragraph and subsection (b)(8) for
23 conducting the search and providing
24 the records. The amount of such fee
25 shall not exceed the lesser of the ac-

1 tual cost of such activities or \$50.
2 Such fees shall be available to the At-
3 torney General, or, in the Attorney
4 General's discretion, to the Federal
5 Bureau of Investigation, until ex-
6 pended.

7 “(II) STATE.—A State may
8 charge a nursing facility a fee for ini-
9 tiating the criminal background check
10 under this paragraph and subsection
11 (b)(8), including fees charged by the
12 Attorney General, and for performing
13 the review and report required by sub-
14 paragraph (C). The amount of such
15 fee shall not exceed the actual cost of
16 such activities.

17 “(ii) PROHIBITION ON CHARGING AP-
18 PPLICANTS OR EMPLOYEES.—An entity may
19 not impose on an applicant for employment
20 or an employee any charges relating to the
21 performance of a background check under
22 this paragraph.

23 “(E) REGULATIONS.—

24 “(i) IN GENERAL.—In addition to the
25 Secretary's authority to promulgate regula-

1 tions under this title, the Attorney Gen-
2 eral, in consultation with the Secretary,
3 may promulgate such regulations as are
4 necessary to carry out the Attorney Gen-
5 eral's responsibilities under this paragraph
6 and subsection (b)(8), including regula-
7 tions regarding the security, confiden-
8 tiality, accuracy, use, destruction, and dis-
9 semination of information, audits and rec-
10 ordkeeping, and the imposition of fees.

11 “(ii) APPEAL PROCEDURES.—The At-
12 torney General, in consultation with the
13 Secretary, shall promulgate such regula-
14 tions as are necessary to establish proce-
15 dures by which an applicant or employee
16 may appeal or dispute the accuracy of the
17 information obtained in a background
18 check conducted under this paragraph. Ap-
19 peals shall be limited to instances in which
20 an applicant or employee is incorrectly
21 identified as the subject of the background
22 check, or when information about the ap-
23 plicant or employee has not been updated
24 to reflect changes in the applicant's or em-
25 ployee's criminal record.

1 “(F) REPORT.—Not later than 2 years
 2 after the date of enactment of this paragraph,
 3 the Attorney General shall submit a report to
 4 Congress on—

5 “(i) the number of requests for
 6 searches and exchanges of records made
 7 under this section;

8 “(ii) the disposition of such requests;
 9 and

10 “(iii) the cost of responding to such
 11 requests.”.

12 (3) APPLICATION TO OTHER ENTITIES PRO-
 13 VIDING HOME HEALTH OR LONG-TERM CARE SERV-
 14 ICES.—

15 (A) MEDICARE.—Part D of title XVIII of
 16 the Social Security Act (42 U.S.C. 1395x et
 17 seq.) is amended by adding at the end the fol-
 18 lowing:

19 “APPLICATION OF SKILLED NURSING FACILITY PREVEN-
 20 TIVE ABUSE PROVISIONS TO ANY PROVIDER OF
 21 SERVICES OR OTHER ENTITY PROVIDING HOME
 22 HEALTH OR LONG-TERM CARE SERVICES

23 “SEC. 1897. (a) IN GENERAL.—The requirements of
 24 subsections (b)(8) and (e)(6) of section 1819 shall apply
 25 to any provider of services or any other entity that is eligi-
 26 ble to be paid under this title for providing home health

1 services, hospice care (including routine home care and
 2 other services included in hospice care under this title),
 3 or long-term care services to an individual entitled to bene-
 4 fits under part A or enrolled under part B, including an
 5 individual provided with a Medicare+Choice plan offered
 6 by a Medicare+Choice organization under part C (in this
 7 section referred to as a ‘medicare beneficiary’).

8 “(b) SUPERVISION OF PROVISIONAL EMPLOYEES.—

9 “(1) IN GENERAL.—With respect to an entity
 10 that provides home health services, such entity shall
 11 be considered to have satisfied the requirements of
 12 section 1819(b)(8)(B)(ii) or 1919(b)(8)(B)(ii) if the
 13 entity meets such requirements for supervision of
 14 provisional employees of the entity as the Secretary
 15 shall, by regulation, specify in accordance with para-
 16 graph (2).

17 “(2) REQUIREMENTS.—The regulations re-
 18 quired under paragraph (1) shall provide the fol-
 19 lowing:

20 “(A) Supervision of a provisional employee
 21 shall consist of ongoing, good faith, verifiable
 22 efforts by the supervisor of the provisional em-
 23 ployee to conduct monitoring and oversight ac-
 24 tivities to ensure the safety of a medicare bene-
 25 ficiary.

1 “(B) For purposes of subparagraph (A),
 2 monitoring and oversight activities may include
 3 (but are not limited to) the following:

4 “(i) Follow-up telephone calls to the
 5 medicare beneficiary.

6 “(ii) Unannounced visits to the medi-
 7 care beneficiary’s home while the provi-
 8 sional employee is serving the medicare
 9 beneficiary.

10 “(iii) To the extent practicable, lim-
 11 iting the provisional employee’s duties to
 12 serving only those medicare beneficiaries in
 13 a home or setting where another family
 14 member or resident of the home or setting
 15 of the medicare beneficiary is present.”.

16 (B) MEDICAID.—Section 1902(a) of the
 17 Social Security Act (42 U.S.C. 1396a) is
 18 amended—

19 (i) in paragraph (64), by striking
 20 “and” at the end;

21 (ii) in paragraph (65), by striking the
 22 period and inserting “; and”; and

23 (iii) by inserting after paragraph (65)
 24 the following:

1 “(66) provide that any entity that is eligible to
2 be paid under the State plan for providing home
3 health services, hospice care (including routine home
4 care and other services included in hospice care
5 under title XVIII), or long-term care services for
6 which medical assistance is available under the State
7 plan to individuals requiring long-term care complies
8 with the requirements of subsections (b)(8) and
9 (e)(8) of section 1919 and section 1897(b) (in the
10 same manner as such section applies to a medicare
11 beneficiary).”.

12 (b) PREVENTION AND TRAINING DEMONSTRATION
13 PROJECT.—

14 (1) ESTABLISHMENT.—The Secretary of Health
15 and Human Services shall establish a demonstration
16 program to provide grants to develop information on
17 best practices in patient abuse prevention training
18 (including behavior training and interventions) for
19 managers and staff of hospital and health care fa-
20 cilities.

21 (2) ELIGIBILITY.—To be eligible to receive a
22 grant under paragraph (1), an entity shall be a pub-
23 lic or private nonprofit entity and prepare and sub-
24 mit to the Secretary of Health and Human Services
25 an application at such time, in such manner, and

1 containing such information as the Secretary may
2 require.

3 (3) USE OF FUNDS.—Amounts received under a
4 grant under this subsection shall be used to—

5 (A) examine ways to improve collaboration
6 between State health care survey and provider
7 certification agencies, long-term care ombuds-
8 man programs, the long-term care industry,
9 and local community members;

10 (B) examine patient care issues relating to
11 regulatory oversight, community involvement,
12 and facility staffing and management with a
13 focus on staff training, staff stress manage-
14 ment, and staff supervision;

15 (C) examine the use of patient abuse pre-
16 vention training programs by long-term care en-
17 tities, including the training program developed
18 by the National Association of Attorneys Gen-
19 eral, and the extent to which such programs are
20 used; and

21 (D) identify and disseminate best practices
22 for preventing and reducing patient abuse.

23 (4) AUTHORIZATION OF APPROPRIATIONS.—
24 There is authorized to be appropriated such sums as
25 may be necessary to carry out this subsection.

1 (c) SENSE OF THE SENATE REGARDING THE ESTAB-
2 LISHMENT OF A NATIONAL BACKGROUND CHECK SYSTEM
3 FOR LONG-TERM CARE EMPLOYEES.—

4 (1) FINDINGS.—The Senate makes the fol-
5 lowing findings:

6 (A) Nearly 1,500,000 Americans reside in
7 17,000 nursing homes throughout the Nation,
8 and the vast majority of nursing homes partici-
9 pate in the medicare and medicaid programs.

10 (B) The Federal Government spent
11 \$82,100,000,000 through the medicare and
12 medicaid programs in fiscal year 2000 for long-
13 term care services.

14 (C) The impending retirement of the baby
15 boom generation will greatly increase the de-
16 mand and need for quality long-term care, and
17 it is incumbent on Congress and the President
18 to ensure that medicare and medicaid bene-
19 ficiaries are protected from abuse, neglect, and
20 mistreatment.

21 (D) On July 30, 2001, the minority staff
22 of the special investigations division of the
23 Committee on Government Reform of the
24 House of Representatives issued a report which
25 found that in the past 2 years, over 30 percent

1 of nursing homes in the United States were
2 cited for a physical, sexual, or verbal abuse vio-
3 lation that had the potential to harm residents,
4 and nearly 10 percent of nursing homes had
5 violations that caused actual harm to residents.

6 (E) Although the majority of long-term
7 care facilities do an excellent job in caring for
8 elderly and disabled patients, incidents of abuse
9 and neglect and mistreatment do occur at an
10 unacceptable rate and are not limited to nurs-
11 ing homes alone.

12 (F) Without a national background check
13 system to screen applicants for employment, all
14 long-term care providers, including nursing fa-
15 cilities, home health, home care, and hospice
16 providers, are at risk for hiring workers with a
17 history of abuse and violence.

18 (G) A March 2002 report by the General
19 Accounting Office found that few prosecutions
20 and criminal convictions result from allegations
21 of abuse in nursing homes.

22 (H) Federal law requires all States to
23 maintain a nurse aide registry which includes
24 any substantiated findings of abuse committed
25 by nurse aides in nursing homes.

1 (I) In March 2002, the General Account-
2 ing Office testified before the Special Com-
3 mittee on Aging of the Senate that the existing
4 State registries contained significant gaps be-
5 cause many nursing home employees are not in-
6 cluded in the registries and the registries do not
7 track abuses committed in other States.

8 (J) A 1998 report from the Office of the
9 Inspector General of the Department of Health
10 and Human Services entitled “Safeguarding
11 Long-Term Care Residents” recommended es-
12 tablishing a national registry of abusive long-
13 term care workers to be checked by all long-
14 term care facilities before hiring an employee.

15 (2) SENSE OF THE SENATE.—It is the Sense of
16 the Senate that Congress should pass legislation
17 that will—

18 (A) require the Secretary of Health and
19 Human Services to establish a national registry
20 of abusive long-term care workers that will in-
21 corporate abuse information from all existing
22 State nurse aide registries, and expand infor-
23 mation included in the State registries and the
24 national registry to include abuse information
25 about all employees of all long-term care pro-

1 viders that receive funding through the medi-
2 care or medicaid programs (42 U.S.C. 1395 et
3 seq.; 1396 et seq.);

4 (B) require all long-term care providers,
5 before hiring a potential employee, to conduct
6 checks of both the national registry and crimi-
7 nal conviction records maintained by the Fed-
8 eral Bureau of Investigation, and prohibit long-
9 term care providers from hiring potential em-
10 ployees with relevant abuse and criminal his-
11 tories;

12 (C) require the Secretary of Health and
13 Human Services and the Attorney General to
14 develop an efficient system for long-term care
15 providers to use to check both the national reg-
16 istry and the criminal conviction records main-
17 tained by the Federal Bureau of Investigation
18 before hiring an employee; and

19 (D) ensure adequate safeguards to protect
20 the privacy and accuracy of information regard-
21 ing applicants for employment being checked
22 through the national registry and the criminal
23 conviction records maintained by the Federal
24 Bureau of Investigation.

25 (d) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in para-
 2 graph (2), this section and the amendments made by
 3 this section shall take effect on the date that is 6
 4 months after the effective date of final regulations
 5 promulgated to carry out this section and such
 6 amendments.

7 (2) SENSE OF THE SENATE.—Subsection (c)
 8 shall take effect on the date of enactment of this
 9 section.

10 **SEC. 103. INCREASING THE NUMBER OF HEALTH CARE**
 11 **PROFESSIONALS WITH GERIATRIC TRAINING.**

12 Section 338C of the Public Health Service Act (42
 13 U.S.C. 254m) is amended by adding at the end the fol-
 14 lowing:

15 “(f) For purposes of this section and section 338B,
 16 the term ‘obligated service’, with respect to an individual
 17 who has entered into a written contract with the Secretary
 18 under section 338B, includes any period in which the indi-
 19 vidual is enrolled and participating in an accredited (as
 20 determined by the Secretary) educational program that
 21 provides geriatric training. Upon the completion of such
 22 training, such individual, after consultation with the Sec-
 23 retary, shall provide geriatric services as appropriate dur-
 24 ing the remainder of such individual’s period of obligated
 25 service.”.

1 **SEC. 104. SUPPORTING THE LONG-TERM CARE OMBUDS-**
 2 **MAN PROGRAM.**

3 Section 712(h) of the Older Americans Act of 1965
 4 (42 U.S.C. 3058g(h)) is amended—

5 (1) in paragraph (8), by striking “; and” and
 6 inserting a semicolon;

7 (2) in paragraph (9), by striking the period and
 8 inserting “; and”; and

9 (3) by adding at the end the following:

10 “(10) make grants to eligible entities to conduct
 11 evaluations and pilot studies relating to various pro-
 12 grams and methods carried out by the Office or a
 13 local Ombudsman entity under section 307(a)(9) or
 14 this chapter.”.

15 **SEC. 105. ESTABLISHMENT OF OFFICE OF ADULT PROTEC-**
 16 **TIVE SERVICES.**

17 (a) IN GENERAL.—Part A of title XI of the Social
 18 Security Act (42 U.S.C. 1301 et seq.) is amended by add-
 19 ing at the end the following:

20 “OFFICE OF ADULT PROTECTIVE SERVICES

21 “SEC. 1150A. (a) IN GENERAL.—There is estab-
 22 lished within the Department of Health and Human Serv-
 23 ices, within the Administration on Children and Families,
 24 the Office of Adult Protective Services (in this section re-
 25 ferred to as the ‘Office’). The Office shall be headed by
 26 a Director, who shall be appointed by the Secretary.

1 “(b) DUTIES.—The Office shall—

2 “(1) provide necessary support to State adult
3 protective services offices that investigate reports of
4 abuse, neglect, and exploitation of elderly individuals
5 and vulnerable adults;

6 “(2) annually collect and disseminate data re-
7 lating to the abuse, exploitation, and neglect of el-
8 derly individuals and vulnerable adults;

9 “(3) develop and disseminate best practices re-
10 garding, and provide training on, carrying out pro-
11 tective services for elderly individuals and vulnerable
12 adults;

13 “(4) conduct research related to the provision
14 of such protective services;

15 “(5) provide technical assistance to States and
16 other entities that provide or fund the provision of
17 such protective services, including through grants
18 made under title XX;

19 “(6) participate in the Intra-Agency Elder Jus-
20 tice Steering Committee established under section
21 2212; and

22 “(7) coordinate activities with the Office of
23 Elder Justice established under section 2211 and
24 with other Federal and State agencies that have re-
25 sponsibility for issues related to elder justice.

1 “(c) APPROPRIATIONS.—There are appropriated such
2 sums as may be necessary to carry out this section.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section take effect 90 days after the date of enactment
5 of the Elder Justice Act.

6 **SEC. 106. ASSURING SAFETY OF RESIDENTS WHEN NURS-**
7 **ING FACILITIES CLOSE.**

8 (a) MEDICARE.—Section 1819(c)(2) of the Social Se-
9 curity Act (42 U.S.C. 1395i–3(c)(2)) is amended by add-
10 ing at the end the following:

11 “(D) NOTIFICATION OF FACILITY CLO-
12 SURE.—

13 “(i) IN GENERAL.—A skilled nursing
14 facility shall—

15 “(I) submit to the Secretary and
16 the appropriate State regulatory agen-
17 cy written notification of an impend-
18 ing closure not later than the date
19 that is 60 days prior to the date of
20 such closure; and

21 “(II) include in the notice a plan
22 for the transfer and adequate reloca-
23 tion of the residents prior to closure.

24 “(ii) SANCTIONS.—Any person owning
25 a skilled nursing facility that fails to com-

ply with the requirements of clause (i)
shall be subject to—

“(I) a civil monetary penalty of
up to \$1,000,000;

“(II) exclusion from participation
in the programs under this Act (in ac-
cordance with the procedures of sec-
tion 1128); and

“(III) any other applicable civil
monetary penalties and assessments.

“(iii) PROCEDURE.—A civil monetary
penalty or assessment authorized under
clause (ii) shall be imposed against a per-
son in the same manner as a civil mone-
tary penalty, assessment, or exclusion is
imposed under section 1128A.”.

(b) MEDICAID.—Section 1919(c)(2) of the Social Se-
curity Act (42 U.S.C. 1396r(c)(2)) is amended by adding
at the end the following:

“(G) NOTIFICATION OF FACILITY CLO-
SURE.—

“(i) IN GENERAL.—A nursing facility
shall—

“(I) submit to the Secretary and
the appropriate State regulatory agen-

1 cy written notification of an impend-
2 ing closure not later than the date
3 that is 60 days prior to the date of
4 such closure; and

5 “(II) include in the notice a plan
6 for the transfer and adequate reloca-
7 tion of the residents prior to closure.

8 “(ii) SANCTIONS.—Any person owning
9 a nursing facility that fails to comply with
10 the requirements of clause (i) shall be sub-
11 ject to—

12 “(I) a civil monetary penalty of
13 up to \$1,000,000;

14 “(II) exclusion from participation
15 in the programs under this Act (in ac-
16 cordance with the procedures of sec-
17 tion 1128); and

18 “(III) any other applicable civil
19 monetary penalties and assessments.

20 “(iii) PROCEDURE.—A civil monetary
21 penalty or assessment authorized under
22 clause (ii) shall be imposed against a per-
23 son in the same manner as a civil mone-
24 tary penalty, assessment, or exclusion is
25 imposed under section 1128A.”.

1 **TITLE II—DEPARTMENT OF**
2 **JUSTICE**

3 **SEC. 201. MODEL STATE LAWS AND PRACTICES.**

4 (a) IN GENERAL.—The Attorney General, in con-
5 sultation with the Secretary of Health and Human Serv-
6 ices, shall—

7 (1) conduct a study of State laws and practices
8 relating to elder abuse, neglect, and exploitation; and

9 (2) not later than 2 years after the date of en-
10 actment of this Act, submit to the Special Com-
11 mittee on Aging of the Senate, a report that—

12 (A) provides recommendations on a com-
13 prehensive description and comparative analysis
14 of the State laws and practices; and

15 (B) provides recommended models for
16 State laws and practices based on an analysis
17 of the most effective State laws and practices,
18 including recommendations with respect to the
19 definitions referred to in subsection (b)(1).

20 (b) STATE LAWS AND PRACTICES.—The Attorney
21 General shall examine State laws and practices under sub-
22 section (a) on issues including—

23 (1) definitions of “elder”, “abuse”, “neglect”,
24 and “exploitation”, and related terms;

25 (2) mandatory reporting laws, with respect to—

1 (A) who is a mandated reporter;

2 (B) to whom must they report and within
3 what timeframe; and

4 (C) any consequences for nonreporting;

5 (3) evidentiary rules (including televised testi-
6 mony) relating to pursuing cases relating to elder
7 abuse, neglect, and exploitation;

8 (4) laws requiring immediate reporting of all
9 nursing home deaths to the county coroner or some-
10 one else;

11 (5) guardianship and power of attorney laws;

12 (6) banking laws permitting banks to prevent
13 and report suspected elder abuse;

14 (7) State laws that may impede research on
15 elder abuse, neglect, and exploitation;

16 (8) practices relating to the enforcement of laws
17 relating to elder abuse, neglect, and exploitation; and

18 (9) practices relating to other aspects of elder
19 justice.

20 **SEC. 202. OFFICE OF ELDER JUSTICE OF THE DEPARTMENT**
21 **OF JUSTICE.**

22 (a) ESTABLISHMENT.—There is established within
23 the Department of Justice under the Assistant Attorney
24 General, Office of Justice Programs, an Office of Elder
25 Justice.

1 (b) DIRECTOR.—

2 (1) APPOINTMENT.—The President, with the
3 advice and consent of the Senate, shall appoint a Di-
4 rector of the Office of Elder Justice, from among in-
5 dividuals with experience and expertise in elder jus-
6 tice issues, to manage the Office of Elder Justice es-
7 tablished under this section.

8 (2) DUTIES.—The Director of the Office of
9 Elder Justice shall—

10 (A)(i) develop objectives, priorities, policy,
11 and a long-term plan for elder justice programs
12 and activities relating to prevention, detection,
13 training, treatment, evaluation, intervention, re-
14 search, and improvement of the elder justice
15 system in the United States;

16 (ii) implement the overall policy and a
17 strategy to carry out the plan described in
18 clause (i); and

19 (iii) hire personnel to assist the director in
20 carrying out the policy, program, and adminis-
21 trative activities related to the duties under
22 clauses (i) and (ii);

23 (B) provide advice to the Attorney General
24 on elder justice issues; and

1 (C) coordinate activities with the Senior
2 Advisor on Elder Justice.

3 (3) REPORTING RELATIONSHIP.—The Director
4 of the Office of Elder Justice shall have the same
5 reporting relationship with the Attorney General and
6 the Assistant Attorney General, Office of Justice
7 Programs, as the directors of the other offices head-
8 ed by presidential appointees within the Office of
9 Justice Programs.

10 (4) COMPENSATION.—The Director shall be
11 compensated at a rate that shall not exceed the rate
12 established for level I of the Executive Schedule
13 under section 5312 of title 5, United States Code.

14 (c) SENIOR ADVISOR.—

15 (1) APPOINTMENT.—The Attorney General
16 shall appoint a Senior Advisor on Elder Justice,
17 from among individuals with experience and exper-
18 tise in elder justice issues.

19 (2) DUTIES.—The Senior Advisor on Elder
20 Justice shall—

21 (A) coordinate elder justice activities
22 among—

23 (i) the Office of Elder Justice;

1 (ii) other offices (including bureaus)
 2 within the Office of Justice Programs that
 3 are involved with elder justice issues;

4 (iii) litigating divisions with cases re-
 5 lating to elder justice matters;

6 (iv) the Executive Office of United
 7 States Attorneys and the United States
 8 Attorneys' offices; and

9 (v) any other office or division of the
 10 Department of Justice that the Attorney
 11 General considers appropriate for such co-
 12 ordination; and

13 (B) provide advice to the Attorney General
 14 on elder justice issues.

15 (3) LOCATION.—The Senior Advisor on Elder
 16 Justice shall be located in—

17 (A) the Office of the Attorney General;

18 (B) the Office of the Deputy Attorney
 19 General; or

20 (C) the Office of the Associate Attorney
 21 General.

22 (4) POSITION.—The position of the Senior Ad-
 23 visor on Elder Justice shall be a Senior Executive
 24 Service position, as defined in section 3132 of title
 25 5, United States Code.

1 (5) STAFF.—The Senior Advisor on Elder Jus-
 2 tice may, without regard to the civil service laws and
 3 regulations, appoint and terminate 1 full-time em-
 4 ployee to enable the Senior Advisor to perform the
 5 duties described in paragraph (2). The Senior Advi-
 6 sor on Elder Justice may fix the compensation of
 7 the employee without regard to chapter 51 and sub-
 8 chapter III of chapter 53 of title 5, United States
 9 Code, relating to classification of positions and Gen-
 10 eral Schedule pay rates, except that the rate of pay
 11 for the employee may not exceed the rate established
 12 for level V of the Executive Schedule under section
 13 5316 of such title.

14 (6) RELATION TO OTHER LAW.—The positions
 15 described in paragraphs (4) and (5), and the salary
 16 for the positions, shall be in addition to the total
 17 number of positions and the total amount of salary
 18 provided for in Public Law 107–77.

19 **SEC. 203. GRANTS, COOPERATIVE AGREEMENTS, AND CON-**
 20 **TRACTS UNDER THE SOCIAL SECURITY ACT.**

21 The Attorney General is authorized to award grants,
 22 contracts, and cooperative agreements under subsections
 23 (a), (c)(1), (c)(2), (d), (e)(1), (f), (h), (i), and (j) of sec-
 24 tions 2222 and 2224 of the Social Security Act in accord-
 25 ance with such subsections.

1 **SEC. 204. VICTIM ADVOCACY GRANTS.**

2 (a) GRANTS AUTHORIZED.—The Attorney General,
3 in consultation with the Secretary of Health and Human
4 Services, may award grants, contracts, and cooperative
5 agreements to eligible entities to study the special needs
6 of victims of elder abuse, neglect, and exploitation.

7 (b) AUTHORIZED ACTIVITIES.—Funds awarded pur-
8 suant to subsection (a) shall be used for pilot programs
9 that develop programs, provide training to social services
10 providers, law enforcement, and victim advocates, and ex-
11 amine special approaches designed to meet the needs of
12 victims of elder abuse, neglect, and exploitation.

13 **SEC. 205. CENTER FOR THE PROSECUTION OF ELDER**
14 **ABUSE, NEGLECT, AND EXPLOITATION.**

15 (a) GRANT AUTHORIZED.—The Attorney General, in
16 consultation with the Health and Human Services Office
17 of Elder Justice shall award a grant to the American Pros-
18 ecutor Research Institute of the National District Attor-
19 neys Association to fund the creation of a Center for the
20 Prosecution of Elder Abuse, Neglect, and Exploitation.

21 (b) MISSION.—The Center created under subsection
22 (a) shall advise and support local prosecutors nationwide
23 in their pursuit of cases involving elder abuse, neglect, and
24 exploitation.

1 **SEC. 206. COORDINATION OF ELDER JUSTICE ACTIVITIES**
2 **BY THE NATIONAL ASSOCIATION OF ATTOR-**
3 **NEYS GENERAL.**

4 (a) GRANT AUTHORIZED.—The Attorney General
5 shall award a grant to the National Association of Attor-
6 neys General (NAAG) to create a full time position to per-
7 form the duties listed under subsection (b).

8 (b) DUTIES.—The position created under subsection
9 (a) shall—

10 (1) coordinate elder justice matters within the
11 NAAG; and

12 (2) assist the NAAG in establishing elder jus-
13 tice policy.

14 **SEC. 207. TECHNICAL, INVESTIGATIVE, AND VICTIM ASSIST-**
15 **ANCE FOR FEDERAL CASES INVOLVING**
16 **ELDER JUSTICE.**

17 (a) IN GENERAL.—The Attorney General shall sup-
18 port cases relating to elder justice.

19 (b) ADDITIONAL STAFF.—The Attorney General
20 shall make funding available to federal prosecutors to hire
21 nurse-investigators or other experts needed to identify, as-
22 sist with, or pursue cases relating to elder justice.

23 (c) RESOURCE GROUP.—The Attorney General shall
24 provide funding through the Executive Office of United
25 States Attorneys for a Resource Group to assist prosecu-

1 tors throughout the Nation in pursuing failure of care and
 2 other cases relating to elder justice matters.

3 (d) OFFICE OF INSPECTOR GENERAL.—The Office of
 4 Inspector General of the Department of Health and
 5 Human Services shall hire nurse investigators and other
 6 experts to investigate failure of care allegations.

7 **SEC. 208. COMMUNITY POLICING.**

8 (a) GRANT AUTHORIZED.—The Attorney General
 9 shall establish a grant program to develop community po-
 10 licing and other law enforcement efforts to make commu-
 11 nities safer for elders living in all settings.

12 (b) SPECIAL ELDER UNITS.—The Attorney General,
 13 in consultation with the Secretary of Health and Human
 14 Services, shall establish a grant program to support—

- 15 (1) special elder units;
- 16 (2) in rural areas with fewer law enforcement
 17 personnel, a specially-trained elder officer; and
- 18 (3) programs, including the Alzheimer Associa-
 19 tion’s “Safe Return Program”.

20 (c) EVALUATION.—The grant programs established
 21 under subsections (a) and (b) shall be evaluated to deter-
 22 mine which ones should be replicated and disseminated to
 23 other communities.

1 **SEC. 209. EVALUATIONS.**

2 (a) GRANTS, COOPERATIVE AGREEMENTS, AND CON-
3 TRACTS.—

4 (1) IN GENERAL.—In making a grant under a
5 provision of this title (other than this section), the
6 Attorney General shall—

7 (A) require the recipient of the grant to—

8 (i) reserve a portion of the funds
9 made available through the grant; and

10 (ii) use the reserved funds to conduct
11 an evaluation of the other activities carried
12 out through the grant; or

13 (B)(i) reserve a portion of the funds avail-
14 able for the grant; and

15 (ii) use the reserved funds to provide as-
16 sistance to an eligible entity to conduct an eval-
17 uation of the activities carried out through the
18 grant.

19 (2) USE OF FUNDS.—A recipient of a grant de-
20 scribed in paragraph (1)(A), or assistance described
21 in paragraph (1)(B)(ii), shall use the funds made
22 available through the grant, or the assistance, re-
23 spectively, to conduct a validated evaluation of the
24 effectiveness of the activities described in subpara-
25 graph (A) or (B), respectively, of paragraph (1).

26 (3) APPLICATIONS.—

1 (A) SUBMISSION.—

2 (i) GRANTS FOR PROJECTS CON-
3 TAINING EVALUATIONS.—To be eligible to
4 receive a grant for which the Attorney
5 General requires the reservation described
6 in paragraph (1)(A)(i), an entity shall in-
7 clude a proposal for the evaluation in the
8 application submitted for the grant.

9 (ii) ASSISTANCE FOR EVALUATIONS.—

10 To be eligible to receive assistance under
11 paragraph (1)(B)(ii), an entity shall sub-
12 mit an application to the Attorney General
13 at such time, in such manner, and con-
14 taining such information as the Attorney
15 General may require, including a proposal
16 for the evaluation.

17 (B) REVIEW AND ASSISTANCE.—An em-
18 ployee of the Department of Justice, in con-
19 sultation with an employee of the Department
20 of Health and Human Services and a non-
21 governmental member of the advisory panel, ex-
22 pertise in evaluation methodology shall review
23 each proposal described in clause (i) or (ii) of
24 subparagraph (A), and determine whether the
25 methodology described in the proposal is ade-

1 quate to gather meaningful information. If the
2 reviewers determine that the methodology is in-
3 adequate, they shall recommend that the Attor-
4 ney General deny the application for the grant
5 described in subparagraph (A)(i), or the assist-
6 ance described in subparagraph (B)(ii), as ap-
7 propriate, or make recommendations for how
8 the application should be amended. If the At-
9 torney General denies the application on the
10 basis of the proposal, the Attorney General
11 shall inform the applicant why the application
12 was denied, and offer assistance to the appli-
13 cant in modifying the proposal.

14 (b) OTHER GRANTS.—The Attorney General shall
15 make grants to appropriate entities to conduct validated
16 evaluations of activities, to reduce elder abuse, neglect,
17 and exploitation, that are not funded under this title.

18 (c) CONDITION OF PARTICIPATION.—As a condition
19 of participation in any grant under this title, individuals,
20 facilities, and other entities shall agree to be subject to
21 the provisions of section 571 of title 18, United States
22 Code, as added by this Act.

23 (d) DEFINITION.—In this section, the term “grant”
24 includes a contract, cooperative agreement, or other mech-
25 anism for providing financial assistance.

1 **SEC. 210. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as are necessary for fiscal years 2003 through 2009 to
4 carry out this Act.

5 **SEC. 211. CAUSE OF ACTION FOR ELDER ABUSE AND NE-**
6 **GLECT.**

7 (a) IN GENERAL.—Part I of title 18, United States
8 Code, is amended by adding after chapter 27 the fol-
9 lowing:

10 **“CHAPTER 28—ELDER ABUSE AND**
11 **NEGLECT**

“Sec.

“571. Harm to residents of nursing facilities.

12 **“§ 571. Definition**

13 “(a) CRIMINAL OFFENSE.—

14 “(1) IN GENERAL.—Whoever with the intent to
15 cause injury or with reckless disregard of known
16 facts that establish a high risk of causing injury to
17 humans, engages in conduct, or commits, or fails to
18 commit, any acts or series of acts, that result in se-
19 rious bodily injury to 1 or more residents of a nurs-
20 ing facility and in abuse or neglect of an additional
21 2 or more residents of a nursing facility, shall be im-
22 prisoned for not more than 20 years, and if death
23 results, such person shall be imprisoned for any
24 term of years or for life.

1 “(2) ENHANCED PENALTY.—Any entity or or-
2 ganization found guilty of an offense under this sub-
3 section shall be fined not more than \$3,000,000 per
4 nursing facility involved, and any individual found
5 guilty of an offense under this subsection shall be
6 fined pursuant to the individual fine provisions of
7 section 3571 of this title.

8 “(b) OTHER APPROPRIATE RELIEF.—If the Attorney
9 General has reason to believe that an individual or entity
10 is engaging in or is about to engage in conduct that results
11 in abuse or neglect of 3 or more residents of a nursing
12 facility, and where that conduct results in or has the po-
13 tential for resulting in bodily injury or other harm to 1
14 or more of those residents, the Attorney General may peti-
15 tion an appropriate United States district court for appro-
16 priate equitable and declaratory relief to eliminate the pat-
17 tern.

18 “(c) DEFINITIONS.—In this section—

19 “(1) ENTITY.—The term ‘entity’ means any
20 nursing facility (including facilities that do not ex-
21 clusively provide nursing care), any entity that man-
22 ages a nursing facility, or any entity that owns, di-
23 rectly or indirectly, a controlling interest or a 50
24 percent or greater interest in one or more nursing

1 facilities, including States, localities and political
2 subdivisions thereof.

3 “(2) FEDERAL HEALTH CARE PROGRAM.—The
4 term ‘Federal health care program’ means—

5 “(A) any plan or program that provides
6 health benefits, whether directly, through insur-
7 ance, or otherwise, which is funded directly, in
8 whole or in part, by the United States Govern-
9 ment; or

10 “(B) any State health care program, as de-
11 fined in section 1128h of the Social Security
12 Act.

13 “(3) NEGLECT.—The term ‘neglect’ means the
14 failure of a caregiver (as defined in section 2201 of
15 the Social Security Act) to provide the goods or
16 services that are necessary to avoid physical harm,
17 mental anguish, or mental illness.

18 “(4) NURSING FACILITY.—The term ‘nursing
19 facility’ means both a nursing facility (as defined in
20 section 1919(a) of the Social Security Act) and a
21 skilled nursing facility as defined in section 1819(a)
22 of the Social Security Act.

23 “(5) WHOEVER.—The term ‘whoever’ has the
24 same meaning as in section 921(a)(1) of this title.

1 “(6) OTHER TERMS.—The terms ‘abuse’,
 2 ‘State’, and ‘serious bodily injury’ shall have the
 3 meanings given those terms in section 2201 of the
 4 Social Security Act.”.

5 (b) HEALTH CARE OFFENSE.—Section 24(a)(1) of
 6 title 18, United States Code, is amended by inserting
 7 “571,” before “669,”.

8 (c) TECHNICAL AND CONFORMING AMENDMENT.—
 9 The table of chapters for part I of title 18, United States
 10 Code, is amended by inserting after the item relating to
 11 chapter 27 the following:

“28. Elder Abuse and Neglect 571”.

12 **SEC. 212. REGULATIONS.**

13 The Attorney General may issue such regulations as
 14 may be necessary to carry out this title.

15 **TITLE III—TAX PROVISIONS**

16 **SEC. 301. LONG-TERM CARE FACILITY WORKER EMPLOY-**
 17 **MENT TAX CREDIT.**

18 (a) WORK OPPORTUNITY TAX CREDIT.—

19 (1) IN GENERAL.—Section 51(d)(1) of the In-
 20 ternal Revenue Code of 1986 (relating to members
 21 of targeted groups) is amended by striking “or” at
 22 the end of subparagraph (G), by striking the period
 23 at the end of subparagraph (H) and inserting “, or”,
 24 and by adding at the end the following:

1 “(I) a qualified long-term care facility
2 worker.”.

3 (2) QUALIFIED LONG-TERM CARE FACILITY
4 WORKER.—Section 51(d) of such Code is amended
5 by redesignating paragraphs (10) through (12) as
6 paragraphs (11) through (13), respectively, and by
7 inserting after paragraph (9) the following:

8 “(10) QUALIFIED LONG-TERM CARE FACILITY
9 WORKER.—The term ‘qualified long-term care facil-
10 ity worker’ means any individual who—

11 “(A) is hired by a long-term care facility
12 (as defined in section 2201(13) of the Social
13 Security Act, and

14 “(B) is certified by the designated local
15 agency as being qualified to provide long-term
16 care (as defined in section 2201(12) of such
17 Act) at such facility.”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to individuals who begin work for
20 the employer after the date of enactment of this Act.

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